



New South Wales

State Insurance and Care Governance Act 2015 No 19

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New South Wales

State Insurance and Care Governance Act 2015 No 19

Act No 19, 2015

An Act relating to the governance of State insurance and care schemes; to constitute Insurance and Care NSW and the State Insurance Regulatory Authority; and for other purposes. [Assented to 21 August 2015]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *State Insurance and Care Governance Act 2015*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

(1) In this Act:

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

ICNSW Board means the board of directors of Insurance and Care NSW.

Insurance and Care NSW (or **ICNSW**) means Insurance and Care NSW constituted under this Act.

Nominal Insurer means the Workers Compensation Nominal Insurer established under section 154A of the *Workers Compensation Act 1987*.

SIRA Board means the Board of the State Insurance Regulatory Authority.

State Insurance Regulatory Authority (or **SIRA**) means the State Insurance Regulatory Authority constituted under this Act.

workers compensation and motor accidents legislation means any of the following Acts and the instruments under those Acts:

- (a) *Workplace Injury Management and Workers Compensation Act 1998*,
- (b) *Workers Compensation Act 1987*,
- (c) *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*,
- (d) *Motor Accidents Compensation Act 1999*,
- (e) *Motor Accidents Act 1988*.

(2) Notes included in this Act do not form part of this Act.

Part 2 Insurance and Care NSW

Division 1 Constitution and management of ICNSW

4 Constitution of Insurance and Care NSW

- (1) There is constituted by this Act a body corporate with the corporate name of Insurance and Care NSW.
- (2) ICNSW is, for the purposes of any Act, a NSW Government agency.
Note. See section 13A of the *Interpretation Act 1987*.

5 Board of directors of ICNSW

- (1) There is to be a board of directors of Insurance and Care NSW.
- (2) The ICNSW Board is to consist of the following directors:
 - (a) the chief executive of ICNSW,
 - (b) up to 8 other directors appointed by the Minister (the *appointed directors*).**Note.** Schedule 1 contains provisions relating to the board of directors of ICNSW.
- (3) The appointed directors are to be persons who, in the opinion of the Minister, together have skills and experience relevant to the administration of State insurance and care schemes and that will assist ICNSW in exercising its functions.
- (4) A person who is an appointed member of the SIRA Board is ineligible to be appointed as a director of the ICNSW Board.
- (5) In exercising his or her functions as a director of the ICNSW Board, the director is to exercise the degree of care and diligence that a reasonable person in a like position would exercise in the circumstances.

6 Role of ICNSW Board

- (1) All decisions relating to the functions of ICNSW are to be made by or under the authority of the ICNSW Board.
- (2) Any act, matter or thing done in the name of, or on behalf of, ICNSW by or under the authority of the ICNSW Board is taken to have been done by ICNSW.
- (3) The ICNSW Board has the following functions:
 - (a) to give the Minister any information relating to the activities of ICNSW that the Minister requests,
 - (b) to keep the Minister informed of the general conduct of ICNSW's activities and of any significant development in ICNSW's activities,
 - (c) to determine general policies for ICNSW and to give directions to the chief executive of ICNSW in relation to the ICNSW's activities,
 - (d) such other functions as are conferred or imposed on it by or under this or any other Act or law.

7 Power of Minister to give directions in public interest

- (1) The Minister may give the ICNSW Board a written direction in relation to ICNSW if the Minister is satisfied that it is necessary to do so in the public interest.
- (2) The ICNSW Board must ensure that the direction is complied with.
- (3) Before giving a direction under this section, the Minister must:
 - (a) consult with the ICNSW Board, and

- (b) request the Board to advise the Minister whether, in its opinion, complying with the direction would not be in the best interests of ICNSW.
- (4) The Minister is required to cause a notice to be published in the Gazette setting out the reasons why a direction was given under this section and why it is in the public interest that the direction was given. Any such notice is to be published in the Gazette within 1 month after the direction is given.

8 Chief executive of ICNSW

- (1) The ICNSW Board is, in consultation with the Minister, to employ a person as the chief executive of ICNSW.
Note. Schedule 2 contains provisions relating to the chief executive of ICNSW.
- (2) The chief executive of ICNSW is responsible for day to day management of the activities of ICNSW in accordance with the general policies and specific directions of the ICNSW Board.

9 Committees of ICNSW Board

- (1) The ICNSW Board may establish committees to give advice and assistance to the ICNSW Board in connection with any particular matter or function of the ICNSW Board.
- (2) A committee of the ICNSW Board must be chaired by a director of the ICNSW Board. It does not matter that some or all of the other members of the committee are not directors of the ICNSW Board.
- (3) The procedure for the calling of meetings of a committee of the ICNSW Board and for the conduct of business at those meetings is to be as determined by the ICNSW Board or (subject to any determination of the ICNSW Board) by the committee.

Division 2 Functions of ICNSW

10 Functions of ICNSW

- (1) ICNSW has the following functions:
 - (a) to act for the Nominal Insurer in accordance with section 154C of the *Workers Compensation Act 1987*,
 - (b) to provide services (including staff and facilities) for any relevant authority, or for any other person or body, in relation to any insurance or compensation scheme administered or provided by the relevant authority or that other person or body,
 - (c) to enter into agreements or arrangements with any person or body for the purposes of providing services of any kind or for the purposes of exercising the functions of the Nominal Insurer,
 - (d) to monitor the performance of the insurance or compensation schemes in respect of which it provides services,
 - (e) such other functions as are conferred or imposed on it by or under this or any other Act.

Note. These other functions include annual reporting requirements under the *Annual Reports (Statutory Bodies) Act 1984*.

- (2) Each of the following is a **relevant authority** for the purposes of this section:
- (a) the Workers Compensation (Dust Diseases) Authority constituted under the *Workers' Compensation (Dust Diseases) Act 1942*,
 - (b) the Lifetime Care and Support Authority of New South Wales constituted under the *Motor Accidents (Lifetime Care and Support) Act 2006*,
 - (c) the Sporting Injuries Compensation Authority constituted under the *Sporting Injuries Insurance Act 1978*,
 - (d) the NSW Self Insurance Corporation constituted under the *NSW Self Insurance Corporation Act 2004*.

11 ICNSW to prepare annual statement of business intent

- (1) ICNSW is to prepare a statement of business intent and submit the statement to the Minister and the Treasurer not later than 3 months after the commencement of each financial year of ICNSW.
- (2) A statement of business intent is to set out the business plan of ICNSW over the financial year to which the statement relates and is to include the following:
- (a) the objectives of ICNSW and its main undertakings,
 - (b) the nature and scope of the activities to be undertaken,
 - (c) the accounting policies to be applied in the financial reports of ICNSW,
 - (d) the performance targets and other measures by which the performance of ICNSW may be judged in relation to its stated objectives,
 - (e) any other matter required by the Minister.
- (3) If the Minister or the Treasurer is not satisfied with a statement submitted under this section, the Minister may direct ICNSW to amend and resubmit the statement in the manner and time specified.

12 Investment strategies for scheme funds

- (1) ICNSW is to determine investment strategies for the investment of any scheme fund.
- (2) ICNSW is to report to the Minister at least once in every period of 6 months on the investment performance of each scheme fund.
- (3) ICNSW may enter into agreements or arrangements to determine investment strategies for the investment of any other insurance or compensation fund.
- (4) Each of the following is a **scheme fund** for the purposes of this section:
- (a) the Workers Compensation Insurance Fund established under section 154D of the *Workers Compensation Act 1987*,
 - (b) the Workers' Compensation (Dust Diseases) Fund constituted under the *Workers' Compensation (Dust Diseases) Act 1942*,
 - (c) the Bush Fire Fighters Compensation Fund established under section 19 of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*,
 - (d) the Emergency and Rescue Workers Compensation Fund established under section 31 of the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*,
 - (e) the Lifetime Care and Support Authority Fund established under section 48 of the *Motor Accidents (Lifetime Care and Support) Act 2006*,
 - (f) the Sporting Injuries Fund established under section 11 of the *Sporting Injuries Insurance Act 1978*,

- (g) the Supplementary Sporting Injuries Fund established under section 11A of the *Sporting Injuries Insurance Act 1978*.

13 Delegation of ICNSW's functions

- (1) ICNSW may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by ICNSW if the delegate is authorised in writing to do so by ICNSW.
- (3) In this section:
authorised person means any of the following:
 - (a) the chief executive of ICNSW,
 - (b) a director of the ICNSW Board,
 - (c) a member of staff of ICNSW,
 - (d) a member of a committee of the ICNSW Board,
 - (e) a person or body prescribed by the regulations.

Division 3 Staff of ICNSW

14 Employment of staff

ICNSW is authorised to employ such staff as it requires to exercise its functions. The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the staff employed by ICNSW.

15 Salary, conditions etc of staff

- (1) ICNSW may fix the salary, wages and conditions of employment of staff employed under this Division in so far as they are not fixed by or under any other law.
- (2) ICNSW may enter into an agreement with any association or organisation representing a group or class of members of staff of ICNSW with respect to the conditions of employment (including salaries, wages or remuneration) of that group or class in so far as they are not fixed by or under any other law.

16 ICNSW senior executives

- (1) In this section:
executive position means a position as a member of staff of ICNSW that:
 - (a) has a remuneration level greater than that for a clerk (grade 12) in the Public Service with general administrative duties, and
 - (b) is designated by ICNSW as an executive position.**senior executive** means a member of staff of ICNSW holding an executive position.
- (2) A senior executive is to be employed under a written contract of employment signed by the senior executive and the chief executive of ICNSW on behalf of ICNSW.
- (3) ICNSW may terminate the employment of a senior executive at any time, for any or no stated reason and without notice.
- (4) A senior executive whose employment is so terminated is entitled to any compensation provided in the contract of employment of the executive (and to no other compensation or entitlement for the termination of employment).

- (5) The employment of a senior executive, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the *Industrial Relations Act 1996*.
- (6) Parts 6, 7 and 9 of Chapter 2 of the *Industrial Relations Act 1996* do not apply to or in respect of the employment of a senior executive.
- (7) Any State industrial instrument (whether made before or after the commencement of this section) does not have effect in so far as it relates to the employment of senior executives. This subsection does not prevent the provisions of any such industrial agreement being adopted by reference in the conditions of employment of a senior executive.
- (8) No proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief, lie in respect of a matter that is declared by this section not to be an industrial matter for the purposes of the *Industrial Relations Act 1996*.
- (9) In subsections (5)–(8), a reference to the **employment** of a senior executive is a reference to:
 - (a) the appointment of, or failure to appoint, a person as such an executive, or
 - (b) the removal, retirement, termination of employment or other cessation of office of a senior executive, or
 - (c) any disciplinary proceedings or disciplinary action taken against a senior executive, or
 - (d) the remuneration or other conditions of employment of a senior executive.

Part 3 State Insurance Regulatory Authority

Division 1 Constitution and management of SIRA

17 Constitution of State Insurance Regulatory Authority

- (1) There is constituted by this Act a body corporate with the corporate name of the State Insurance Regulatory Authority.
- (2) SIRA is, for the purposes of any Act, a NSW Government agency.
Note. See section 13A of the *Interpretation Act 1987*.

18 SIRA Board

- (1) There is to be a Board of the State Insurance and Regulatory Authority.
- (2) The SIRA Board is to consist of the following members:
 - (a) the chief executive of SIRA,
 - (b) the Secretary of the Department of Finance, Services and Innovation or a person nominated by the Secretary,
 - (c) up to 3 other members appointed by the Minister (the *appointed members*).**Note.** Schedule 3 contains provisions relating to the members and procedure of the SIRA Board.
- (3) The appointed members are to be persons who, in the opinion of the Minister, have skills and experience relevant to matters arising under the workers compensation and motor accidents legislation and that will assist SIRA in attaining its objectives.
- (4) A person who is an appointed director of the ICNSW Board is ineligible to be appointed as a member of the SIRA Board.
- (5) The SIRA Board has the following functions:
 - (a) to determine the general policies and strategic direction of SIRA,
 - (b) to oversee the performance of the activities of SIRA,
 - (c) to give the Minister any information relating to the activities of SIRA that the Minister requests,
 - (d) to keep the Minister informed of the general conduct of SIRA's activities and of any significant development in SIRA's activities,
 - (e) such other functions as are conferred or imposed on it by or under this or any other Act or law.

19 Chief executive of SIRA

- (1) The chief executive of SIRA is the person employed in the Department of Finance, Services and Innovation as the chief executive of SIRA.
- (2) The affairs of SIRA are to be managed and controlled by the chief executive in accordance with the general policies and strategic direction determined by the SIRA Board.
- (3) Any act, matter or thing done in the name of, or on behalf of, SIRA by the chief executive is taken to have been done by SIRA.

20 Ministerial directions

- (1) The Minister may give SIRA a written direction with respect to the functions of SIRA if the Minister is satisfied that it is necessary to do so in the public interest.
- (2) SIRA must ensure that the direction is complied with.

- (3) SIRA must include in its annual report particulars of each direction given under this section during the year to which the report relates.
- (4) Except as provided by this section, SIRA is not, in the exercise of its functions, subject to the control and direction of the Minister.

21 Staff of SIRA

Persons may be employed in the Public Service under the *Government Sector Employment Act 2013* to enable SIRA to exercise its functions.

Note. Section 59 of the *Government Sector Employment Act 2013* provides that the persons so employed (or whose services SIRA makes use of) may be referred to as members of staff of SIRA. Section 47A of the *Constitution Act 1902* precludes SIRA from employing staff.

22 Committees of SIRA Board

- (1) The SIRA Board may establish committees to give advice and assistance to the SIRA Board in connection with any particular matter or function of the SIRA Board.
- (2) A committee of the SIRA Board must be chaired by a member of the SIRA Board. It does not matter that some or all of the other members of a committee are not members of the SIRA Board.
- (3) The procedure for the calling of meetings of a committee of the SIRA Board and for the conduct of business at those meetings is to be as determined by the SIRA Board or (subject to any determination of the SIRA Board) by the committee.

Division 2 Objectives and functions of SIRA

23 Principal objectives of SIRA

The principal objectives of SIRA in exercising its functions are as follows:

- (a) to promote the efficiency and viability of the insurance and compensation schemes established under the workers compensation and motor accidents legislation and the other Acts under which SIRA exercises functions,
- (b) to minimise the cost to the community of workplace injuries and injuries arising from motor accidents and to minimise the risks associated with such injuries,
- (c) to promote workplace injury prevention, effective injury management and return to work measures and programs,
- (d) to ensure that persons injured in the workplace or in motor accidents have access to treatment that will assist with their recovery,
- (e) to provide for the effective supervision of claims handling and disputes under the workers compensation and motor accidents legislation,
- (f) to promote compliance with the workers compensation and motor accidents legislation.

24 Functions of SIRA

- (1) SIRA has such functions as are conferred or imposed on it by or under this or any other Act (including under the workers compensation and motor accidents legislation).
- (2) The functions of SIRA also include the following:
 - (a) to collect and analyse information on prudential matters in relation to insurers under the workers compensation and motor accidents legislation,
 - (b) to encourage and promote the carrying out of sound prudential practices by insurers under that legislation,

- (c) to evaluate the effectiveness and carrying out of those practices.

25 Investigation and report by IPART

- (1) The Independent Pricing and Regulatory Tribunal (*IPART*) may, at the request of the Minister, conduct an investigation and report to the Minister on such matters relating to the operational costs and expenses of SIRA as are determined by the Minister.
- (2) Except as provided by the regulations, Division 7 of Part 3 of the *Independent Pricing and Regulatory Tribunal Act 1992* applies to an investigation and report by IPART under this section in the same way as it applies to an investigation or report under that Part.

26 Delegation

- (1) SIRA may delegate to an authorised person any of its functions, other than this power of delegation.
- (2) The chief executive of SIRA may delegate to an authorised person any of the chief executive's functions under this Act, other than this power of delegation.
- (3) A delegate may sub-delegate to an authorised person any function delegated by SIRA or the chief executive if the delegate is authorised in writing to do so by SIRA or the chief executive.
- (4) In this section:
authorised person means any of the following:
 - (a) a member of staff of SIRA,
 - (b) a member of the SIRA Board or a committee of the SIRA Board,
 - (c) a person or body prescribed by the regulations.

Part 4 Miscellaneous

27 Supervision of operation of insurance and compensation schemes by Parliamentary Committee

- (1) As soon as practicable after the commencement of this section and the commencement of the first session of each Parliament, a committee of the Legislative Council is to be designated by resolution of the Legislative Council as the designated committee for the purposes of this section.
- (2) The resolution of the Legislative Council is to specify the terms of reference of the committee so designated which are to relate to the supervision of the operation of the insurance and compensation schemes established under the workers compensation and motor accidents legislation.
- (3) On the commencement of this section, the Parliamentary Committee designated under section 11 of the *Safety, Return to Work and Support Board Act 2012* (as in force immediately before its repeal by this Act) is taken to be the designated committee under this section.
- (4) In this section, the *workers compensation and motor accidents legislation* includes the following:
 - (a) the *Motor Accidents (Lifetime Care and Support) Act 2006*,
 - (b) the *Workers' Compensation (Dust Diseases) Act 1942*.

28 Exclusion of personal liability

- (1) A matter or thing done or omitted to be done by:
 - (a) ICNSW or SIRA, or
 - (b) the ICNSW Board or the SIRA Board (or a committee of such a board), or
 - (c) a director of the ICNSW Board or a member of the SIRA Board, or
 - (d) the chief executive of ICNSW or SIRA, or
 - (e) a member of staff of ICNSW or SIRA, or
 - (f) a person acting under the direction of ICNSW, SIRA, the ICNSW Board, the SIRA Board, a director or member, or a committee, of any such board or the chief executive of ICNSW or SIRA,does not, if the matter or thing was done or omitted to be done in good faith for the purposes of executing this Act or any other Act, subject any director or member of the board or committee concerned, the chief executive, the member of staff or the person so acting personally to any action, liability, claim or demand.
- (2) A reference in subsection (1) to the execution of this Act includes a reference to the execution of the provisions of any other Act that confers or imposes functions on ICNSW or SIRA.

29 Seal of authorities and recovery of money by authorities

- (1) The seal of an authority is to be kept by the chief executive of the authority and may be affixed to a document only:
 - (a) in the presence of the chief executive of the authority or a member of staff of the authority who is authorised for the purpose by the chief executive of the authority, and
 - (b) with an attestation by the signature of the chief executive or that member of staff of the fact of the affixing of the seal.

- (2) Any charge, fee or money due to an authority, or to the Crown in respect of the activities of the authority, may be recovered by the authority as a debt in a court of competent jurisdiction if no express provision is otherwise made for its recovery.
- (3) In this section, *authority* means ICNSW or SIRA.

30 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

31 Repeal of Safety, Return to Work and Support Board Act 2012

The *Safety, Return to Work and Support Board Act 2012* is repealed.

32 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Provisions relating to directors of ICNSW Board

(Section 5)

1 Definitions

In this Schedule:

appointed director means a director of the board who is appointed by the Minister.

board means the ICNSW Board.

director means any director of the board.

2 Chairperson and deputy chairperson

- (1) Of the appointed directors, 2 are (in and by their respective instruments of appointment or in and by other instruments executed by the Minister) to be appointed as chairperson and deputy chairperson of the board, respectively.
- (2) A person may only be appointed as chairperson of the board if the Minister is satisfied that the person has skills and experience relevant to the functions of ICNSW.
- (3) The Minister may at any time remove an appointed director from the office of chairperson or deputy chairperson of the board.
- (4) A person holding the office of chairperson or deputy chairperson of the board vacates that office if the person:
 - (a) is removed from that office by the Minister, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a director.

3 Term of office of appointed directors

Subject to this Schedule, an appointed director holds office for such period (not exceeding 3 years) as is specified in the director's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

4 Remuneration

An appointed director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the director.

5 Vacancy in office of appointed director

- (1) The office of an appointed director becomes vacant if the director:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause or Part 6 of the *Government Sector Employment Act 2013*, or
 - (e) is absent from 4 consecutive meetings of the board of which reasonable notice has been given to the director personally or in the ordinary course of post, except on leave granted by the board or unless, before the expiration of 4 weeks after the last of those meetings, the director is excused by the board for having been absent from those meetings, or

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may at any time remove an appointed director from office.
 - (3) If the office of an appointed director becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

6 Disclosure of pecuniary interests

- (1) If:
 - (a) a director has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the board, and
 - (b) the interest appears to raise a conflict with the proper performance of the director's duties in relation to the consideration of the matter,the director must, as soon as possible after the relevant facts have come to the director's knowledge, disclose the nature of the interest at a meeting of the board.
- (2) A disclosure by a director at a meeting of the board that the director:
 - (a) is a member or director, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the board.
- (4) After a director has disclosed the nature of an interest in any matter, the director must not, unless the Minister or the board otherwise determines:
 - (a) be present during any deliberation of the board with respect to the matter, or
 - (b) take part in any decision of the board with respect to the matter.
- (5) For the purposes of the making of a determination by the board under subclause (4), a director who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the board for the purpose of making the determination, or
 - (b) take part in the making by the board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the board.
- (7) This clause applies to a member of a committee of the board and to the committee in the same way as it applies to a director of the board and to the board.

7 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed director.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of an appointed director or from accepting and retaining any remuneration payable to the person under this Act as such a director.

8 General procedure

The procedure for the calling of meetings of the board and for the conduct of business at those meetings is to be as determined by the board.

Schedule 2 Provisions relating to chief executive of ICNSW

(Section 8)

1 Term of office

Subject to this Schedule, the chief executive of ICNSW may be employed for such period (not exceeding 5 years) as may be specified in the chief executive's contract of employment.

2 Conditions of employment and remuneration

- (1) The ICNSW Board is to fix the conditions of employment of the chief executive of ICNSW.
- (2) The chief executive of ICNSW is entitled to be paid such remuneration (including travelling and subsistence allowances) as the ICNSW Board may determine.
- (3) The chief executive of ICNSW is required to enter into a performance agreement with the ICNSW Board.

3 Vacancy in office of chief executive

- (1) The office of chief executive of ICNSW becomes vacant if the holder of that office:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the ICNSW Board, or
 - (d) is removed from office under clause 4, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of chief executive of ICNSW becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

4 Removal from office

The ICNSW Board may remove the chief executive of ICNSW from office at any time for any or no stated reason and without notice.

5 Acting chief executive

- (1) The ICNSW Board may appoint a person to act in the office of chief executive of ICNSW during the illness or absence of the chief executive or during a vacancy in the office of chief executive of ICNSW. The person, while so acting, has all the functions of the chief executive of ICNSW and is taken to be the chief executive of ICNSW.
- (2) The ICNSW Board may remove a person from any office to which the person was appointed under this clause at any time for any or no stated reason and without notice.
- (3) A person while acting in the office of chief executive of ICNSW is entitled to be paid such remuneration (including travelling and subsistence allowances) as the ICNSW Board may determine in respect of the person.

6 Status of chief executive of ICNSW

- (1) The office of chief executive of ICNSW is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the chief executive of ICNSW.
- (2) The chief executive of ICNSW is, for the purposes of section 73 of that Act, taken to be the holder of a position in a government sector agency.

Schedule 3 Provisions relating to members and procedure of SIRA Board

(Section 18)

1 Definitions

In this Schedule:

appointed member means a member of the board who is appointed by the Minister.

board means the SIRA Board.

member means any member of the board.

2 Chairperson and deputy chairperson

- (1) Of the appointed members, 2 are (in and by their respective instruments of appointment or in and by other instruments executed by the Minister) to be appointed as chairperson and deputy chairperson of the board, respectively.
- (2) A person may only be appointed as chairperson of the board if the Minister is satisfied that the person has skills and experience relevant to the functions of SIRA.
- (3) The Minister may at any time remove an appointed member from the office of chairperson or deputy chairperson of the board.
- (4) A person holding the office of chairperson or deputy chairperson of the board vacates that office if the person:
 - (a) is removed from that office by the Minister, or
 - (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.

3 Term of office of appointed members

Subject to this Schedule, an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

4 Remuneration

An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

5 Vacancy in office of appointed member

- (1) The office of an appointed member becomes vacant if the member:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office by the Minister under this clause or Part 6 of the *Government Sector Employment Act 2013*, or
 - (e) is absent from 4 consecutive meetings of the board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the board for having been absent from those meetings, or

- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (g) becomes a mentally incapacitated person, or
 - (h) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) The Minister may at any time remove an appointed member from office.
 - (3) If the office of an appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

6 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the board, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board.
- (2) A disclosure by a member at a meeting of the board that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the board.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the board otherwise determines:
 - (a) be present during any deliberation of the board with respect to the matter, or
 - (b) take part in any decision of the board with respect to the matter.
- (5) For the purposes of the making of a determination by the board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the board for the purpose of making the determination, or
 - (b) take part in the making by the board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the board.
- (7) This clause applies to a member of a committee of the board and to the committee in the same way as it applies to a member of the board and to the board.

7 Effect of certain other Acts

- (1) The provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to an appointed member.
- (2) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

8 General procedure

The procedure for the calling of meetings of the board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the board.

9 Quorum

The quorum for a meeting of the board is a majority of its members for the time being.

10 Presiding member

- (1) The chairperson or, in the absence of the chairperson, the deputy chairperson is to preside at a meeting of the board.
- (2) In the absence of both the chairperson and the deputy chairperson at a meeting of the board, another member chosen by the members present at the meeting is to preside at the meeting.
- (3) The person presiding at a meeting of the board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 Voting

A decision supported by a majority of the votes cast at a meeting of the board at which a quorum is present is the decision of the board.

12 Transaction of business outside meetings or by telephone

- (1) The board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the board made at a meeting of the board.
- (2) The board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone or other electronic means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the chairperson and each member have the same voting rights as they have at an ordinary meeting of the board.

- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the board.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by electronic means.

Schedule 4 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

Division 1 Abolition of statutory bodies and transfer of assets etc

2 Definitions

In this Division:

assets means any legal or equitable estate or interest (whether present or future, whether vested or contingent and whether personal or assignable) in real or personal property of any description (including money), and includes securities, choses in action and documents.

liabilities means any liabilities, debts or obligations (whether present or future, whether vested or contingent and whether personal or assignable).

rights means any rights, powers, privileges or immunities (whether present or future, whether vested or contingent and whether personal or assignable).

3 Abolition of WorkCover Authority

- (1) The WorkCover Authority of New South Wales is abolished.
- (2) On its abolition, the assets, rights and liabilities of the WorkCover Authority are:
 - (a) to the extent they relate to its functions in acting for the Nominal Insurer—transferred to ICNSW, or
 - (b) to the extent they relate to its functions as the regulator under the *Work Health and Safety Act 2011*—transferred to SafeWork NSW (as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*) on behalf of the Crown, or
 - (c) to the extent they relate to its functions under the *Dangerous Goods (Road and Rail Transport) Act 2008*, the *Explosives Act 2003* or the *Rural Workers Accommodation Act 1969*—transferred to SafeWork NSW on behalf of the Crown, or

- (d) to the extent they relate to the Sporting Injuries Fund established under section 11 of the *Sporting Injuries Insurance Act 1978*—transferred to the Sporting Injuries Compensation Authority constituted under that Act, or
 - (e) to the extent they relate to the Supplementary Sporting Injuries Fund established under section 11A of the *Sporting Injuries Insurance Act 1978*—transferred to the NSW Self Insurance Corporation constituted under the *NSW Self Insurance Corporation Act 2004* (the **Self Insurance Corporation**), or
 - (f) to the extent they relate to the Bush Fire Fighters Compensation Fund and the Emergency and Rescue Workers Compensation Fund established under the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*—transferred to the Self Insurance Corporation, or
 - (g) in any other case—transferred to SIRA.
- (3) Without limiting the application of clause 6 to any such transfer, any proceedings commenced by or on behalf of the WorkCover Authority but not completed before its abolition are taken to have been commenced:
- (a) to the extent those proceedings relate to the functions of the WorkCover Authority in acting for the Nominal Insurer—by or on behalf of ICNSW, or
 - (b) to the extent those proceedings relate to the functions of the WorkCover Authority as the regulator under the *Work Health and Safety Act 2011*—by or on behalf of SafeWork NSW, or
 - (c) to the extent those proceedings relate to the functions of the WorkCover Authority under the *Dangerous Goods (Road and Rail Transport) Act 2008*, the *Explosives Act 2003* or the *Rural Workers Accommodation Act 1969*—by or on behalf of SafeWork NSW, or
 - (d) in any other case—by or on behalf of SIRA.
- (4) For the purposes of subclause (3), **proceedings** includes any prosecution, investigation or other enforcement action.
- (5) Subclause (2) is subject to the regulations.

4 Abolition of Motor Accidents Authority

- (1) The Motor Accidents Authority of New South Wales is abolished.
- (2) Subject to the regulations, the assets, rights and liabilities of the Motor Accidents Authority are, on its abolition, transferred to SIRA.
- (3) Without limiting the application of clause 6 to any such transfer, any proceedings commenced by or on behalf of the Motor Accidents Authority but not completed before its abolition are taken to have been commenced by or on behalf of SIRA.
- (4) For the purposes of subclause (3), **proceedings** includes any prosecution, investigation or other enforcement action.

5 Abolition of Safety, Return to Work and Support Board

- (1) The Safety, Return to Work and Support Board is abolished.
- (2) Each person holding office as a member of the Safety, Return to Work and Support Board ceases to hold office as such a member on the abolition of the Board and is not entitled to any remuneration or compensation for the loss of that office.
- (3) Subject to the regulations, the assets, rights and liabilities of the Safety, Return to Work and Support Board are, on its abolition, transferred to ICNSW.

6 Provisions relating to transfers of assets, rights and liabilities

- (1) In this clause, the statutory body from which any assets, rights or liabilities are transferred is called the **transferor** and the body to which they are transferred is the **transferee**.
- (2) When any assets, rights or liabilities are transferred pursuant to this Division, the following provisions have effect:
 - (a) the assets of the transferor vest in the transferee by virtue of this clause and without the need for any further conveyance, transfer, assignment or assurance,
 - (b) the rights or liabilities of the transferor become, by virtue of this clause, the rights or liabilities of the transferee,
 - (c) all proceedings relating to the assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
 - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before the transfer by, to or in respect of the transferor or a predecessor of the transferor is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
 - (e) the transferee has all the entitlements and obligations of the transferor in relation to those assets, rights and liabilities that the transferor would have had but for the transfer, whether or not those entitlements and obligations were actual or potential at the time of the transfer,
 - (f) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent that it relates to those assets, rights or liabilities but subject to the regulations), to be read as, or as including, a reference to the transferee.
- (3) The operation of this clause is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
 - (d) as an event of default under any contract or other instrument.
- (4) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities. Such a notice is conclusive evidence of that transfer.
- (5) No attornment to the transferee by a lessee from the transferor is required.
- (6) In this clause, **instrument** means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

Division 2 Transfer of employees to ICNSW

7 Definitions

In this Division:

existing employee means a person who:

- (a) immediately before the commencement of this Division, was employed in the Department of Finance, Services and Innovation, and
- (b) is designated by ICNSW, with the concurrence of the Secretary, to be a person who is required for the purposes of enabling ICNSW to exercise its functions.

Secretary means the Secretary of the Department of Finance, Services and Innovation.

transfer date, in relation to a transferred employee, means the date on which the transfer of the employee by order under this Division takes effect.

transferred employee means an existing employee who is transferred to the employment of ICNSW by order under this Division.

8 Transfer of existing employees to ICNSW

- (1) The Secretary may, by order in writing, transfer such existing employees as are specified or referred to in the order to the employment of ICNSW.
- (2) Any such employees who are transferred to ICNSW by order under this clause are to be regarded for all purposes as having become employees of ICNSW, in accordance with the terms of the order and this Division, on the day specified in the order as being the day on which the transfer takes effect.

9 Continuation of existing employment arrangements for transferred employees

- (1) The employment of a transferred employee with ICNSW is to be on the same terms and conditions (including salary) as applied in respect of the employee immediately before the transfer date.
- (2) Subclause (1) is subject to any industrial instrument made in respect the transferred employee after the transfer date.
- (3) A transferred employee:
 - (a) retains any rights to annual leave, extended or long service leave, sick leave, or other forms of leave, accrued or accruing in his or her employment as an existing employee, and
 - (b) is not entitled to receive any payment or other benefit (including in the nature of severance pay or redundancy or other compensation) merely because the employee ceases to be in the employment from which the employee was transferred, and
 - (c) is not entitled to claim, both under this Act or any other Act, dual benefits of the same kind for the same period of service.
- (4) Without limiting subclause (3), a transferred employee is not entitled to elect, because of that transfer, to be paid the money value of any extended or annual leave accrued by the employee in the employment from which the employee was transferred.

10 Transferred senior executives

- (1) The regulations may make provision for or with respect to the employment of transferred employees who were employed as Public Service senior executives immediately before the transfer date. Any such regulations have effect despite any other provision of this Division.

- (2) This clause extends to transferred employees who are transitional former senior executives within the meaning of clause 8 of Schedule 4 to the *Government Sector Employment Act 2013*.

Division 3 Miscellaneous

11 Existing guidelines and licences

- (1) Any guidelines issued by the WorkCover Authority or the Motor Accidents Authority under the workers compensation and motor accidents legislation and in force immediately before the commencement of this clause are taken to have been issued by SIRA.
- (2) Any licence granted by the WorkCover Authority or the Motor Accidents Authority under the workers compensation and motor accidents legislation and in force immediately before the commencement of this clause is taken to have been granted by SIRA.

12 Review by Parliamentary Committee

- (1) As soon as practicable after the second anniversary of the commencement of this clause, a committee of the Legislative Council is to be designated by resolution of the Legislative Council to review this Act (including the amendments made by this Act) to determine whether the policy objectives of the Act or those amendments remain valid and whether the terms of the Act (or of the Acts so amended) remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the committee is appointed.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament.

Schedule 5 Amendment of Workers Compensation Act 1987 No 70

[1] The whole Act (except where otherwise amended by this Schedule)

Omit “WorkCover Guidelines” wherever occurring.

Insert instead “Workers Compensation Guidelines”.

[2] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

Authority means the State Insurance Regulatory Authority constituted under the *State Insurance and Care Governance Act 2015*.

ICNSW means Insurance and Care NSW constituted under the *State Insurance and Care Governance Act 2015*.

Workers Compensation Market Practice and Premiums Guidelines means guidelines issued by the Authority under section 168 and in force.

[3] Section 3 (1), definition of “Board”

Omit the definition.

[4] Section 3 (1), definition of “insurance premiums order”

Omit the definition.

[5] Section 20 Principal liable to pay compensation to workers employed by contractors in certain cases

Omit section 20 (8) (d). Insert instead:

(d) the Workers Compensation Market Practice and Premiums Guidelines,
and

[6] Section 53 Weekly payments—residence outside the Commonwealth

Omit “Authority” from section 53 (2). Insert instead “insurer”.

[7] Section 62 Rates applicable for hospital treatment

Omit “, calculated as determined by the Authority by order published in the Gazette” from section 62 (1).

[8] Section 62 (1A)

Insert after section 62 (1):

(1A) The maximum amount for which an employer is liable for any particular hospital treatment is not to exceed such sum (if any) as may be fixed by the Authority in respect of that treatment by order published in the Gazette.

[9] Section 62 (8)

Omit the subsection.

[10] Section 83

Omit the section. Insert instead:

83 Manner of payment of compensation

- (1) Compensation payable under this Act to a worker is to be paid by electronic funds transfer unless:
 - (a) it is not practicable to do so in the particular circumstances applying to the worker, or
 - (b) the regulations provide for some other means in which compensation is to be paid.
- (2) This section does not apply to compensation paid to the Nominal Insurer or the NSW Trustee under this Act.
- (3) In this section:
worker includes any person to whom compensation is payable under this Act.

[11] Sections 87, 154E (2) (h1), 156 (3), 175 (4) and (4AA), 177 (5), 183A (6), 210 (4) and 228 (2) and (2B)

Omit “WorkCover Authority” wherever occurring.

Insert instead “Workers Compensation Operational”.

[12] Sections 140 (5) and 175D–175J and notes to sections 175N and 175O (1)

Omit “Authority” wherever occurring. Insert instead “Nominal Insurer”.

[13] Section 140 Persons eligible to make claims

Insert after section 140 (5):

- (6) The Nominal Insurer is to notify the Authority of any claim made under subsection (5).

[14] Section 141 Making of claims

Insert “and to the Nominal Insurer” after “the Authority” in section 141 (2).

[15] Section 151Y Funding of self-insurers, government employers etc for retrospective claims

Omit “Authority’s” from section 151Y (2).

Insert instead “Workers Compensation Operational”.

[16] Section 154A Establishment of Nominal Insurer

Insert after section 154A (3):

- (4) For the avoidance of doubt, the Nominal Insurer is not a government agency for the purposes of Part 11 of the *Public Works and Procurement Act 1912*.

[17] Sections 154B (5), 154C, 154D (6) and 154G (4)

Omit “the Authority” and “The Authority” wherever occurring. Insert instead “ICNSW”.

[18] Section 154CA

Insert after section 154C:

154CA Nominal Insurer functions of ICNSW

- (1) ICNSW has such additional functions as may be necessary or convenient for enabling ICNSW to act for the Nominal Insurer and to ensure that the functions of the Nominal Insurer are able to be exercised without restriction by any of ICNSW's other functions.
- (2) When acting for the Nominal Insurer, ICNSW has and may exercise all the functions of the Nominal Insurer and is not limited by any of ICNSW's other functions.
- (3) When acting for the Nominal Insurer, ICNSW must exercise its functions so as to ensure the efficient exercise of the functions of the Nominal Insurer and the proper collection of premiums for policies of insurance and the payment of claims in accordance with this Act and the 1998 Act.

[19] Section 154D Establishment and operation of Insurance Fund

Omit "policies determined by the Board" from section 154D (3).

Insert instead "strategies determined by ICNSW under the *State Insurance and Care Governance Act 2015*".

[20] Section 154E Assets of Insurance Fund

Omit section 154E (1) (e) and (3).

[21] Section 154E (2) (c)

Omit "to the Authority or to persons employed by or acting for the Authority".

[22] Sections 155AA (8) (definition of "exemption limit"), 163 (1) (c), 172 (5) (paragraph (c) of the definition of "prescribed rate")

Omit "an insurance premiums order" wherever occurring.

Insert instead "the Workers Compensation Market Practice and Premiums Guidelines".

[23] Section 160 Recovery of excess from employer

Omit the definition of *prescribed excess amount* from section 160 (1). Insert instead:

prescribed excess amount, in respect of a weekly compensation claim paid under a policy of insurance, means the prescribed excess amount determined by the Workers Compensation Market Practice and Premiums Guidelines in respect of that policy.

[24] Section 160 (9)

Omit the subsection.

[25] Section 161 Inspection of policies

Insert after section 161 (1):

- (1A) A reference to the Authority in subsection (1) includes a reference to the Nominal Insurer. However any such notice by the Nominal Insurer may only require information that is necessary for the Nominal Insurer to deal with a claim.

[26] Sections 168–170

Omit the sections. Insert instead:

168 Workers Compensation Market Practice and Premiums Guidelines

- (1) The Authority may issue guidelines with respect to policies of insurance (the *Workers Compensation Market Practice and Premiums Guidelines*).
- (2) The Workers Compensation Market Practice and Premiums Guidelines may (without limiting the generality of subsection (1)):
 - (a) require insurers to file with the Authority premiums for classes of employers in such manner, and at such times, as may be specified in the Guidelines, and
 - (b) require licensed insurers to specify how they have determined premiums, and
 - (c) require licensed insurers to provide additional information with the premiums they file or to justify the premiums they have filed.
- (3) The Authority may amend, revoke or replace the Workers Compensation Market Practice and Premiums Guidelines.
- (4) The Authority is:
 - (a) to consult licensed insurers before it issues, amends or replaces the Workers Compensation Market Practice and Premiums Guidelines, and
 - (b) to provide reasonable notice of any amendment to the Guidelines before the amendment takes effect.
- (5) The Workers Compensation Market Practice and Premiums Guidelines may:
 - (a) adopt the provisions of other publications, whether with or without modification or addition and whether in force at a particular time or from time to time, and
 - (b) apply generally or be limited in their application by reference to specified exceptions or factors or apply differently according to different factors of a specified kind (or do a combination of those things).
- (6) It is a condition of the licence of an insurer (including the Nominal Insurer) that the insurer:
 - (a) complies with the Workers Compensation Market Practice and Premiums Guidelines, and
 - (b) does not charge an insurance premium that is rejected under section 169.

169 Rejection of premiums

- (1) The Authority may reject an insurance premium filed with it as required by the Workers Compensation Market Practice and Premiums Guidelines if the Authority is of the opinion that the premium does not conform with the Guidelines.
- (2) Written notice of the Authority's rejection of a premium, and the reasons for the rejection, must be given to the licensed insurer.
- (3) If the Authority rejects a premium of a licensed insurer, the licensed insurer may request the Authority to reconsider the rejection.

- (4) Pending its reconsideration, the Authority may request an actuary to determine a provisional premium.
- (5) A provisional premium so determined has effect, pending the Authority's reconsideration, as if it were an insurance premium which may lawfully be charged by the licensed insurer concerned.
- (6) If the Authority has not withdrawn its rejection of a premium within 4 weeks after a request to reconsider the rejection, the matter is to be arbitrated under this section. The following provisions have effect:
 - (a) The *Commercial Arbitration Act 2010* applies to an arbitration under this section, subject to this Act and the regulations. The Authority and the licensed insurer concerned may by agreement appoint a person to act as arbitrator in connection with the matter. Failing agreement within 7 days, paragraphs (b) and (c) apply.
 - (b) The Independent Pricing and Regulatory Tribunal may act as arbitrator to hear and determine such a matter.
 - (c) Alternatively, the Independent Pricing and Regulatory Tribunal may appoint a person to act as arbitrator in connection with the matter. The person is to be appointed from a panel constituted by the Minister and consisting of persons who have appropriate knowledge and understanding of economics, general insurance and the interests of consumers.
 - (d) The regulations may make provision for or with respect to the arbitration of matters under this section.
- (7) The arbitrator may:
 - (a) reject a premium if the arbitrator is of the opinion that the premium does not conform with the Workers Compensation Market Practice and Premiums Guidelines, and
 - (b) determine the premium that may be charged by the licensed insurer, being a premium that in the arbitrator's opinion conforms with those Guidelines.

[27] Section 172 Recovery of unpaid premiums

Omit section 172 (4).

[28] Sections 172 (5) (paragraph (b) of the definition of "prescribed rate") and 172A (8) (definition of "required deposit")

Omit "the relevant insurance premiums order" wherever occurring.

Insert instead "the Workers Compensation Market Practice and Premiums Guidelines".

[29] Section 172 (5), definition of "relevant insurance premiums order"

Omit the definition.

[30] Section 172A Security deposit or guarantee for payment of premium

Omit "the premium for which was determined by an optional alternative method (as referred to in section 168A)" from section 172A (1).

[31] Section 172A (8), definition of "required deposit"

Omit "or determined in accordance with the relevant insurance premiums order".

Insert instead "the Authority or determined in accordance with the Workers Compensation Market Practice and Premiums Guidelines".

[32] Section 174 Records relating to wages, contracts etc to be kept and supplied

Insert after section 174 (9):

- (10) A reference to the Authority in this section includes a reference to the Nominal Insurer. However, an order by the Nominal Insurer under this section may only require information that is necessary for the Nominal Insurer to deal with a claim.

[33] Section 175C Private rulings regarding workers at request of employers

Insert “or the Nominal Insurer” after “Authority” wherever occurring.

[34] Section 183A Imposition of civil penalty on or censure of licensed insurer or self-insurer

Omit “Board” wherever occurring in section 183A (1), (2) and (5).

Insert instead “Authority”.

[35] Section 183A (7)

Omit the subsection.

[36] Section 188 Re-insurance—special condition

Omit the section.

[37] Sections 202B and 202C

Insert after section 202A:

202B Business plans of licensed insurers

- (1) A licensed insurer must prepare and deliver to the Authority a business plan for its workers compensation insurance business as soon as practicable after it is requested to do so by the Authority.
- (2) The licensed insurer must revise its business plan:
 - (a) whenever it departs significantly from its business plan, and
 - (b) at such intervals of not less than 12 months as the Authority directs.
- (3) The licensed insurer must, as far as practicable, conduct its workers compensation insurance business in accordance with its current business plan, but if it departs significantly from that plan the insurer must notify the Authority accordingly.
- (4) A business plan must be prepared in accordance with such guidelines as the Authority determines from time to time and notifies to licensed insurers.
- (5) A business plan must describe the manner in which the insurer’s workers compensation insurance business is to be conducted (including premiums, claims handling, management, expenses and systems).
- (6) In this section, a reference to the workers compensation insurance business of a licensed insurer is a reference to any business associated with policies of insurance.

202C Prudential standards

The regulations may make provision with respect to prudential standards and the application of such standards to insurers.

[38] Section 208 Contributions by licensed insurers to Insurance Fund

Omit “Authority” from section 208 (1) and (4) wherever occurring.

Insert instead “Nominal Insurer”.

[39] Section 216A

Insert after section 216:

216A Assignment of policies of former self-insurers

- (1) The Authority may assign all or any class of policies of insurance of a person who was a self-insurer (the *former self-insurer*) to another insurer with the agreement of that other insurer.
- (2) Policies of insurance may be assigned under this section by notice served by the Authority on the former self-insurer concerned.
- (3) An assignment of an insurance policy under this section:
 - (a) transfers the rights, obligations and liabilities under the policy of the former self-insurer to the insurer to which the policy is assigned, and
 - (b) does not otherwise affect the rights, obligations or liabilities acquired, accrued or incurred under the policy.
- (4) For the purposes of this Act, any such assigned policy is to be taken to have been issued or renewed by the insurer to which it is assigned.
- (5) If an insurance policy is assigned under this section, the former self-insurer concerned must, subject to any directions of the Authority, provide the insurer to which the policy is assigned with copies of all documents relating to the policy or to claims under it.

Maximum penalty: 20 penalty units.

[40] Section 227 Insurers’ Guarantee Fund

Omit section 227 (2) (g) and (3A).

[41] Section 239AE Terrorism Re-insurance Fund

Omit section 239AE (2) (d1) and (6).

[42] Section 239AG Contributions to Terrorism Re-insurance Fund

Omit “insurance premiums order” from section 239AG (3).

Insert instead “Workers Compensation Market Practice and Premiums Guidelines”.

[43] Section 239AJ Subrogation

Omit “Chief Executive Officer” from section 239AJ (2).

Insert instead “chief executive of the Authority”.

[44] Schedule 6 Savings, transitional and other provisions

Insert immediately before Part 20 with appropriate Part numbering:

Part Provisions consequent on enactment of State Insurance and Care Governance Act 2015

Note. See also Part 2 of Schedule 4 to the *State Insurance and Care Governance Act 2015* which contains provisions relating to the abolition of the WorkCover Authority.

1 Definition

In this Part:

relevant Act means the *State Insurance and Care Governance Act 2015*.

2 Insurance premiums orders

- (1) Despite the substitution of section 168 by the relevant Act, an insurance premiums order may be made under that section (as in force immediately before its substitution) in relation to policies of insurance issued before the substitution of that section as if that section had not been so substituted.
- (2) Any amendment (other than this clause) made by the relevant Act that applies in relation to insurance premiums orders in force immediately before the commencement of the amendment does not apply in relation to any such insurance premiums order referred to in subclause (1) or, subject to the regulations, to any insurance premiums order as so in force.

3 Continuation of fund

The Workers Compensation Operational Fund established under the 1998 Act is a continuation of the WorkCover Authority Fund established under that Act as in force immediately before the commencement of this clause.

4 Conciliation of existing claims by conciliators under the 1998 Act

Despite its repeal by the relevant Act, Division 3 of Part 2 of Chapter 4 of the 1998 Act continues to apply in relation to existing claims as if that Division had not been so repealed.

Schedule 6 Amendment of Workplace Injury Management and Workers Compensation Act 1998 No 86

[1] Section 4 Definitions

Omit the definition of *Authority* from section 4 (1). Insert instead:

Authority means the State Insurance Regulatory Authority constituted under the *State Insurance and Care Governance Act 2015*.

[2] Section 4 (1), definitions of “Board” and “Chief Executive Officer”

Omit the definitions.

[3] Section 4 (1)

Insert in alphabetical order:

ICNSW means Insurance and Care NSW constituted under the *State Insurance and Care Governance Act 2015*.

SafeWork NSW means SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*.

[4] Sections 4 (1) (definition of “Independent Review Officer”), 24 (1), 45A (4), 119 (4), 250 (3), 260, 266, 267 (2), 280 (1), 281 (6), 282 (1) (g), 283 (2), 284 (5), 291, 322 (1), 323 (4), 328 (2), 331, 376 and 377 (1)

Omit “WorkCover” wherever occurring. Insert instead “Workers Compensation”.

[5] Section 4 (1), definitions of “WorkCover Authority Fund” and “WorkCover Guidelines”

Omit the definitions. Insert in alphabetical order:

Workers Compensation Guidelines means guidelines issued under section 376.

Workers Compensation Operational Fund means the Workers Compensation Operational Fund established under this Act.

[6] Chapter 2, Part 2, heading

Omit “WorkCover Authority of New South Wales”.

Insert instead “General workers compensation functions”.

[7] Chapter 2, Part 2, Divisions 1 and 2

Omit the Divisions.

[8] Chapter 2, Part 2, Division 3, heading

Omit the heading.

[9] Section 22

Omit the section. Insert instead:

22 Objectives and general functions of Authority under workers compensation legislation

- (1) The principal objectives of the Authority in exercising its functions under the workers compensation legislation are as follows:

- (a) to promote the prevention of injuries and diseases at the workplace and the development of healthy and safe workplaces,
 - (b) to promote the prompt, efficient and effective management of injuries to persons at work,
 - (c) to ensure the efficient operation of workers compensation insurance arrangements,
 - (d) to ensure the timely and effective resolution of disputes arising under the workers compensation legislation,
 - (e) to ensure the appropriate co-ordination of arrangements for the administration of the schemes to which the workers compensation legislation relates.
- (2) The general functions of the Authority under the workers compensation legislation are as follows:
- (a) to be responsible for ensuring compliance with the workers compensation legislation,
 - (b) to be responsible for the day to day operational matters relating to the workers compensation scheme,
 - (c) to establish procedures for dealing with complaints made by employers and by injured workers in relation to matters arising under the workers compensation scheme,
 - (d) to monitor and report to the Minister on the operation and effectiveness of the workers compensation legislation and on the performance of the workers compensation scheme,
 - (e) to undertake such consultation as it thinks fit in connection with current or proposed legislation relating to the workers compensation scheme,
 - (f) to monitor and review key indicators of financial viability and other aspects of the workers compensation scheme,
 - (g) to report and make recommendations to the Minister on such matters as the Minister requests or the Authority considers appropriate.

[10] Section 23 Specific functions

Omit “or the work health and safety legislation” from section 23 (1) (c) and (l) wherever occurring.

[11] Section 23 (1) (i)

Omit the paragraph. Insert instead:

- (i) to facilitate and promote the establishment and operation of return-to-work programs,

[12] Section 23 (1) (j1)

Insert after section 23 (1) (j):

- (j1) to enter into arrangements with SafeWork NSW for or in connection with the enforcement of the work health and safety legislation,

[13] Section 23A Nominal Insurer functions of Authority

Omit the section.

[14] Chapter 2, Part 3, heading

Omit “**WorkCover**”. Insert instead “**Workers Compensation**”.

- [15] Section 27B Requirement to provide information**
Insert “and the Nominal Insurer” after “Authority” in section 27B (4).
- [16] Chapter 2, Part 6, Divisions 1 and 2, headings**
Omit “**WorkCover Authority**” wherever occurring.
Insert instead “**Workers Compensation Operational**”.
- [17] Sections 34, 35, 35A (1), 38 (a), 39 (1), 39A (1), 53, 284 (2) and 318H (3)**
Omit “WorkCover Authority” wherever occurring.
Insert instead “Workers Compensation Operational”.
- [18] Section 35 Payments into and from Fund**
Insert after section 35 (1) (a1):
(a2) the investment earnings accruing from the investment of the Fund,
- [19] Section 35 (2) (a) and (b)**
Omit section 35 (2) (a). Insert instead:
(a) the remuneration, allowances, office accommodation and other associated costs of the Board of the Authority and the members of staff of the Authority to the extent that those costs relate to the administration of this Act and the 1987 Act,
(b) the remuneration, allowances, office accommodation and other associated costs of SafeWork NSW,
- [20] Section 35 (2) (d) and (e)**
Omit the paragraphs.
- [21] Section 36 Investment**
Omit “held by it”.
Insert instead “in the Workers Compensation Operational Fund that is not immediately required for the purposes of the Fund”.
- [22] Section 36 (b)**
Omit “to invest money held by the Authority”.
Insert instead “on the Authority to invest money in the Fund”.
- [23] Section 42B Claims assistance**
Insert before section 42B (1):
(1A) A reference to the Authority in this section includes a reference to the Nominal Insurer.
- [24] Section 42B (4)–(6)**
Omit the subsections.

[25] Section 43 Injury management programs

Insert after section 43 (1):

- (1A) Without limiting subsection (1), an insurer that is a scheme agent must revise its injury management program when directed to do so by the Nominal Insurer and lodge a copy of the revised program with the Nominal Insurer.

[26] Section 44 Early notification of workplace injury

Insert after section 44 (3A):

- (3B) If an employer or an insurer has given notice to the Nominal Insurer in accordance with subsection (2) or (3) of a workplace injury to a worker, the Nominal Insurer must as soon as practicable forward that notice to the Authority in accordance with the regulations.

[27] Sections 44, 61 (2) (e) and 254 (3) (d)

Omit “the Authority” wherever occurring. Insert instead “the Nominal Insurer”.

[28] Section 44 (5)

Omit the subsection.

[29] Chapter 4, Part 2, Division 3 Conciliation of disputes by conciliator

Omit the Division.

[30] Sections 124 (2) and 230A (1), (2) (f) and (4) (b)

Insert “or the Nominal Insurer” after “Authority” wherever occurring.

[31] Section 124 Referral of matters to medical referee or panel for report

Omit “the Compensation Court or the conciliator or the Authority” from section 124 (3).

Insert instead “any such person or body”.

[32] Section 230A Premium Discount Schemes

Omit section 230A (5).

[33] Section 237 Service of documents

Insert after section 237 (2):

- (3) A reference to the Authority in this section includes a reference to the Nominal Insurer.

[34] Section 238 Powers of entry by inspectors

Omit the definition of *inspector* from section 238 (1). Insert instead:

inspector means:

- (a) a member of staff of the Authority who is authorised by the Authority for the purposes of this section, or
- (b) any person authorised for the purposes of this section by a person or body prescribed by the regulations.

[35] Section 238AA Power to obtain information, documents and evidence

Omit section 238AA (7). Insert instead:

(7) In this section:

inspector means:

- (a) a member of staff of the Authority who is authorised by the Authority for the purposes of this section, or
- (b) any person authorised for the purposes of this section by a person or body prescribed by the regulations.

[36] Sections 241 and 242

Omit the sections.

[37] Section 243 Disclosure requirements

Insert before section 243 (2) (b):

- (a) SafeWork NSW, and

[38] Section 243 (5)

Insert after section 243 (4):

- (5) This section does not apply in relation to protected information within the meaning of section 243AA.

[39] Section 243AA

Insert after section 243:

243AA Secrecy of information obtained from or relating to insurers or proposed insurers

- (1) A person who acquires protected information in the exercise of functions under this Act must not, directly or indirectly, make a record of the information or divulge the information to another person if the person is aware that it is protected information, except in the exercise of functions under this Act.
Maximum penalty: 50 penalty units.
- (2) Despite subsection (1), protected information may be divulged:
 - (a) to a particular person or persons, if the Authority certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
 - (b) to a person or body prescribed by the regulations, or
 - (c) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
 - (d) to the Minister.
- (3) A person cannot be required:
 - (a) to produce in any court any document or other thing that contains protected information and that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under this Act, or
 - (b) to divulge to any court any protected information that has come to the person's notice in the exercise of the person's functions under this Act.

- (4) Despite subsection (3), a person may be required to produce such a document or other thing in a court or to divulge protected information to a court if:
- (a) the Authority certifies that it is necessary in the public interest to do so, or
 - (b) a person to whom the information relates (or to whom the information contained in the document or thing relates) has expressly authorised it to be divulged to or produced in the court.
- (5) An authority or person to whom protected information is divulged under subsection (2), and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that authority, person or employee were a person exercising functions under this Act and had acquired the information in the exercise of those functions.
- (6) This section does not apply to the divulging of information to, or the production of any document or other thing to:
- (a) any law enforcement agency, or
 - (b) any person or body prescribed by the regulations for the purposes of this subsection.
- (7) In this section:
- court* includes any tribunal, authority or person having power to require the production of documents or the answering of questions.
- functions under this Act* includes functions under the regulations or other instruments under this Act.
- produce* includes permit access to.
- protected information* means:
- (a) information concerning the business, commercial, professional or financial affairs of an applicant for a licence under Part 7 of the 1987 Act or of a licensed insurer, or
 - (b) information obtained in the course of an investigation of an application for such a licence, or
 - (c) information that was obtained by the Authority under this Act or the 1987 Act from a licensed insurer and that is the subject of an unrevoked declaration by the licensed insurer to the effect that the information is confidential,
- not being information that is publicly available.

[40] Chapter 7, Part 10, Division 2, heading

Omit “**WorkCover**”. Insert instead “**Workers Compensation**”.

Schedule 7 Amendment of Motor Accidents Compensation Act 1999 No 41

[1] Section 3 Definitions

Omit the definitions of *Authority* and *Motor Accidents Authority Fund*. Insert instead:

Authority means the State Insurance Regulatory Authority constituted under the *State Insurance and Care Governance Act 2015*.

Motor Accidents Operational Fund means the Motor Accidents Operational Fund established under Part 8.4.

[2] Section 3, definitions of “Board”, “Chief Executive Officer” and “Parliamentary Committee”

Omit the definitions.

[3] Section 3, definitions of “MAA Claims Assessment Guidelines” and “MAA Medical Guidelines”

Omit the definitions. Insert in alphabetical order:

Motor Accidents Claims Assessment Guidelines means guidelines issued by the Authority under Part 4.1 and in force.

Motor Accidents Medical Guidelines means guidelines issued by the Authority under Part 3.1 and in force.

[4] Section 12 Evidence of insurance in respect of motor vehicle

Omit “Motor Accidents” from section 12 (1) (b).

[5] Sections 24 (1), 44 (1), 68 (1) and 69 (1)

Omit “*MAA*” wherever occurring. Insert instead “*Motor Accidents*”.

[6] Sections 24 (2)–(6), 27 (1) (c), 44 (2)–(6), 45, 52, 56 (6), 63 (7), 65 (1), 68 (2)–(5), 69 (2)–(6), 83 (2A), 84 (1), 86 (1) (c), 92 (1) (a), 106, 133 (2) (a) (and the note to section 133) and 214 (3)

Omit “MAA” wherever occurring. Insert instead “Motor Accidents”.

[7] Sections 24 (4) and 166 (3) (a)

Insert “of the Authority” after “Board” wherever occurring.

[8] Section 28 Insurers to disclose profit margins

Omit “to present a report on that assessment annually to the Parliamentary Committee” from section 28 (2).

Insert instead “to include a report on that assessment in its annual report”.

[9] Section 40 Establishment of Nominal Defendant’s Fund

Omit section 40 (2) (c2) and (5).

[10] Sections 99A (2A), 169 (2) and 214A (5) and clause 6 (2) of Schedule 3

Omit “Chief Executive Officer” wherever occurring.

Insert instead “chief executive of the Authority”.

[11] Section 105 Control and direction of claims assessors

Omit section 105 (5). Insert instead:

- (5) This section does not, to the extent that it applies to claims assessors who are members of staff of the Authority, affect any of the functions under the *Government Sector Employment Act 2013* that may be exercised by the head of the Public Service agency in which any such claims assessor is employed.

[12] Section 120 Claims register

Omit section 120 (3). Insert instead:

- (3) Information concerning claims under this Act and claims under the Workers Compensation Acts is authorised to be exchanged between different parts of the Authority.

[13] Sections 155 (4), 164 (2) (b), 166 (5), 167 (6) (b) and 211 (definition of “Fund”)

Omit “Authority” wherever occurring. Insert instead “Operational”.

[14] Section 177 Audit of accounting records and of compliance with guidelines

Omit “Parliamentary Committee” from section 177 (7).

Insert instead “Board of the Authority and to the Minister”.

[15] Chapter 8, Part 8.1, heading

Omit “Motor Accidents Authority”. Insert instead “Functions of Authority”.

[16] Chapter 8, Part 8.1, Divisions 1 and 2

Omit the Divisions.

[17] Chapter 8, Part 8.1, Division 3, heading

Omit the heading.

[18] Section 206 Authority’s functions under this Act

Omit section 206 (1) and (5).

[19] Section 206 (2)

Omit “The Authority also has the following functions”.

Insert instead “In addition to its other functions under this or any other Act, the Authority has the following functions”.

[20] Section 212 Motor Accidents Operational Fund

Omit “Authority Fund” from section 212 (1). Insert instead “Operational Fund”.

[21] Section 212 (3) (a)

Omit the paragraph. Insert instead:

- (a) the remuneration, allowances, office accommodation and other associated costs of the Board of the Authority and the members of staff of the Authority to the extent that those costs relate to the administration of this Act,

[22] Sections 219 and 220

Omit the sections.

[23] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

any other Act that amends this Act

[24] Schedule 5

Insert after Part 10:

**Part 11 Provisions consequent on enactment of State
Insurance and Care Governance Act 2015**

Note. See also Part 2 of Schedule 4 to the *State Insurance and Care Governance Act 2015* which contains provisions relating to the abolition of the Motor Accidents Authority.

41 Continuation of fund

The Motor Accidents Operational Fund is a continuation of the Motor Accidents Authority Fund established under this Act as in force immediately before the commencement of this clause.

Schedule 8 Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16

[1] Section 3 Definitions

Omit the definitions of *Board* and *MAA* from section 3 (1).

[2] Section 3 (1), definition of “Chief Executive Officer”

Omit the definition. Insert instead:

chief executive means the chief executive of the Authority appointed under this Act.

[3] Sections 8 (3) and 30 (2)

Omit “MAA” wherever occurring. Insert instead “State Insurance Regulatory Authority”.

[4] Section 38

Omit the section. Insert instead:

38 Ministerial directions

- (1) If the Minister is satisfied that it is desirable in the public interest to do so, the Minister may, by notice in writing to the Authority, give directions with respect to the functions of the Authority.
- (2) The Minister cannot give a direction under this section with respect to the Authority’s functions under section 49 or 50.
- (3) The Authority must comply with any direction given under this section by the Minister.
- (4) The Authority must include in its annual report particulars of each direction given under this section during the year to which the report relates.
- (5) Except as provided by this section, the Authority is not, in the exercise of its functions, subject to the control and direction of the Minister.

[5] Section 39

Insert after section 38:

39 Chief executive of Authority

- (1) The Minister is to appoint a person as the chief executive of the Authority.
Note. Schedule 1 contains provisions relating to the chief executive of the Authority.
- (2) The affairs of the Authority are to be managed and controlled by the chief executive.
- (3) Any act, matter or thing done in the name of, or on behalf of, the Authority by the chief executive is taken to have been done by the Authority.

[6] Section 41 Delegation of functions

Omit section 41 (2) and (3). Insert instead:

- (2) In this section:
authorised person means any of the following:
 - (a) a member of staff of Insurance and Care NSW,

(b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

[7] Sections 42 and 51 (5)

Omit “Chief Executive Officer” wherever occurring. Insert instead “chief executive”.

[8] Section 43 Functions of Authority

Insert after section 43 (2) (b):

(b1) to provide the Minister with such information as the Minister may request,

[9] Section 43 (5)

Omit the subsection including the note.

[10] Section 48 Lifetime Care and Support Authority Fund

Omit section 48 (2) (c1).

[11] Section 48 (3) (b)

Omit the paragraph. Insert instead:

(b) all payments required to meet expenditure incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with the Scheme,

(b1) all payments (as approved by the Minister administering Part 3 of the *State Insurance and Care Governance Act 2015*) required to meet expenditure incurred by the State Insurance Regulatory Authority in exercising functions in connection with the Scheme,

[12] Section 48 (3A)

Omit the subsection.

[13] Section 49 Determination by Authority of amount to be contributed to Fund

Omit “on the recommendation of the Board” from section 49 (3).

[14] Section 50 Contributions to Fund by third-party policy holders

Insert “State Insurance Regulatory” before “Authority” wherever occurring in section 50 (2) and (5).

[15] Sections 50 (4) and 55

Omit “MAA” wherever occurring. Insert instead “Motor Accidents”.

[16] Schedule 1

Insert as Schedule 1:

Schedule 1 Provisions relating to chief executive

(Section 39)

1 Term of office

Subject to this Schedule, a person appointed as chief executive holds office for such period (not exceeding 5 years) as may be specified in the person’s instrument of appointment.

2 Remuneration

The chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine.

3 Vacancy in office of chief executive

- (1) The office of chief executive becomes vacant if the holder of that office:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office under clause 4, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of chief executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

4 Removal from office

The Minister may remove the chief executive from office at any time for any or no stated reason and without notice.

5 Acting chief executive

- (1) The Minister may appoint a person to act in the office of chief executive during the illness or absence of the chief executive or during a vacancy in the office of chief executive. The person, while so acting, has all the functions of the chief executive and is taken to be the chief executive.
- (2) The Minister may remove a person from any office to which the person was appointed under this clause at any time for any or no stated reason and without notice.
- (3) A person while acting in the office of chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine in respect of the person.

6 Status of chief executive

- (1) The office of chief executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the chief executive.
- (2) The chief executive is, for the purposes of section 73 of that Act, taken to be the holder of a position in a government sector agency.

[17] Schedule 3 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

Schedule 9 Amendment of Sporting Injuries Insurance Act 1978 No 141

[1] Section 4 Definitions

Omit the definitions of *Authority*, *Chief Executive Officer* and *the Department* from section 4 (1).

Insert in alphabetical order:

Authority means the Sporting Injuries Compensation Authority constituted under this Act.

chief executive means the chief executive of the Authority appointed under this Act.

Department means the Office of Sport.

Self Insurance Corporation means the NSW Self Insurance Corporation constituted by the *NSW Self Insurance Corporation Act 2004*.

[2] Sections 5 (1) (b) and 6 (4)

Omit “Chief Executive Officer” wherever occurring. Insert instead “chief executive”.

[3] Part 2, heading

Omit “General functions”. Insert instead “Constitution and functions of Authority”.

[4] Sections 7 and 7A

Insert before section 8:

7 Constitution of Authority

(1) There is constituted by this Act a body corporate with the corporate name of the Sporting Injuries Compensation Authority.

(2) The Authority is a NSW Government agency.

Note. See section 13A of the *Interpretation Act 1987*.

7A Ministerial control

The Authority is subject to the control and direction of the Minister in the exercise of its functions, except in relation to the contents of any advice, report or recommendation given to the Minister.

[5] Sections 9 and 10

Insert after section 8:

9 Chief executive of Authority

(1) The Minister is to appoint a person as the chief executive of the Authority.

Note. Schedule 4A contains provisions relating to the chief executive of the Authority.

(2) The affairs of the Authority are to be managed and controlled by the chief executive.

(3) Any act, matter or thing done in the name of, or on behalf of, the Authority by the chief executive is taken to have been done by the Authority.

10 Delegation

- (1) The Authority may delegate to an authorised person any of the functions of the Authority (other than this power of delegation).
- (2) In this section:
authorised person means any of the following:
 - (a) a member of staff of Insurance and Care NSW,
 - (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

[6] Section 11 Establishment of Sporting Injuries Fund

Omit section 11 (2). Insert instead:

- (2) The Fund comprises the following:
 - (a) all money paid to the Authority under section 5A or Part 4,
 - (b) all other assets of the Authority, including gifts made to it and investments made by it under section 12 with respect to money forming part of the Fund.

[7] Section 11 (3) (a2) and (a3)

Insert after section 11 (3) (a1):

- (a2) all payments required to meet expenditure incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with the insurance scheme established under this Act,
- (a3) all payments (approved by the Minister administering Part 3 of the *State Insurance and Care Governance Act 2015*) required to meet expenditure incurred by the State Insurance Regulatory Authority in exercising functions in connection with the insurance scheme established under this Act,

[8] Section 11 (3) (d)

Omit the paragraph.

[9] Section 11 (4)

Omit the subsection.

[10] Section 11A (2) (a)

Omit the paragraph.

[11] Section 11A (3)–(6)

Omit the subsections. Insert instead:

- (3) There is to be paid from the Supplementary Fund the costs of administering this Act in so far as those costs relate to enrolled student participants of schools and enrolled participants of the Department, including the cost of meeting any claims made by or with respect to enrolled student participants and enrolled participants for benefits under this Act.
- (4) The Self Insurance Corporation is to ensure that the money in the Supplementary Fund is sufficient to meet the liabilities that are or may be required to be met from time to time by the Supplementary Fund.

[12] Sections 11A and 11B

Omit “Authority” wherever occurring. Insert instead “Self Insurance Corporation”.

[13] Section 11B (3) (c)

Omit “this Act”. Insert instead “the Supplementary Fund”.

[14] Section 11B (3) (c)

Omit “, including any interest paid to the Fund under section 11A (6) during that quarter”.

[15] Section 12

Omit the section. Insert instead:

12 Investment

- (1) The Authority may invest money in the Fund that is not immediately required for the Fund:
 - (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
 - (b) if that Act does not confer power on the Authority to invest money in the Fund—in any other manner approved by the Minister with the concurrence of the Treasurer.
- (2) The Self Insurance Corporation may invest money in the Supplementary Fund that is not immediately required for the Supplementary Fund:
 - (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
 - (b) if that Act does not confer power on the Self Insurance Corporation to invest money in the Supplementary Fund—in any other manner approved by the Minister administering the *NSW Self Insurance Corporation Act 2004* with the concurrence of the Treasurer.

[16] Section 16 Determination of premiums

Insert after section 16 (2):

- (2A) Any determination with respect to premiums for payment to the Sporting Injuries Fund has no effect unless it is approved by the State Insurance Regulatory Authority.

[17] Section 35A Certain claims against Authority and others

Insert after section 35A (1):

- (1A) A reference in this section to the Authority includes a reference to the Self Insurance Corporation to the extent that this section applies in relation to benefits paid from the Supplementary Fund.

[18] Section 35B Liability of concurrent tortfeasors

Insert after section 35B (2):

- (3) A reference in this section to the Authority includes a reference to the Self Insurance Corporation to the extent that this section applies in relation to benefits paid from the Supplementary Fund.

[19] Schedule 4A

Insert after Schedule 4:

Schedule 4A Provisions relating to chief executive

(Section 9)

1 Term of office

Subject to this Schedule, a person appointed as chief executive holds office for such period (not exceeding 5 years) as may be specified in the person's instrument of appointment.

2 Remuneration

The chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine.

3 Vacancy in office of chief executive

- (1) The office of chief executive becomes vacant if the holder of that office:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office under clause 4, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of chief executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

4 Removal from office

The Minister may remove the chief executive from office at any time for any or no stated reason and without notice.

5 Acting chief executive

- (1) The Minister may appoint a person to act in the office of chief executive during the illness or absence of the chief executive or during a vacancy in the office of chief executive. The person, while so acting, has all the functions of the chief executive and is taken to be the chief executive.
- (2) The Minister may remove a person from any office to which the person was appointed under this clause at any time for any or no stated reason and without notice.
- (3) A person while acting in the office of chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine in respect of the person.

6 Status of chief executive

- (1) The office of chief executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the chief executive.
- (2) The chief executive is, for the purposes of section 73 of that Act, taken to be the holder of a position in a government sector agency.

Schedule 10 Amendment of Workers' Compensation (Dust Diseases) Act 1942 No 14

- [1] **The whole Act (except sections 2 (3) (b) and 7 (1), Schedule 2 and where otherwise amended by this Schedule)**

Omit "board" and "board's" wherever occurring.

Insert instead "Authority" and "Authority's", respectively.

- [2] **Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

Authority means the Workers Compensation (Dust Diseases) Authority constituted under this Act.

chief executive means the chief executive of the Authority appointed under this Act.

Dust Diseases Board means the Dust Diseases Board established by section 5AC.

function includes a power, authority or duty, and *exercise* a function includes perform a duty.

ICNSW means Insurance and Care NSW constituted under the *State Insurance and Care Governance Act 2015*.

Medical Assessment Panel means the Medical Assessment Panel appointed under section 7.

SIRA means the State Insurance Regulatory Authority constituted under the *State Insurance and Care Governance Act 2015*.

- [3] **Section 3 (1), definitions of "Board", "Medical authority" and "WorkCover Authority"**

Omit the definitions.

- [4] **Sections 5–5AC**

Omit sections 5 and 5AA. Insert instead:

5 Constitution and functions of Authority

- (1) There is constituted by this Act a corporation with the corporate name of the Workers Compensation (Dust Diseases) Authority.
- (2) The Authority is a NSW Government agency.
Note. See section 13A of the *Interpretation Act 1987*.
- (3) The Authority has the following functions:
 - (a) to determine claims for compensation under this Act,
 - (b) such other functions as are conferred or imposed on it by or under this or any other Act.

5AA Chief executive

- (1) The Minister is to appoint a person as the chief executive of the Authority.
Note. Schedule 1B contains provisions relating to the chief executive of the Authority.
- (2) The affairs of the Authority are to be managed and controlled by the chief executive.

- (3) Any act, matter or thing done in the name of, or on behalf of, the Authority by the chief executive is taken to have been done by the Authority.

5AB Delegation

- (1) The Authority may delegate to an authorised person any of the functions of the Authority (other than this power of delegation).
- (2) In this section:
authorised person means:
- (a) a member of staff of Insurance and Care NSW, or
 - (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

5AC Dust Diseases Board

- (1) There is established a Dust Diseases Board comprising the following members appointed by the Minister:
- (a) 3 persons appointed to represent employers,
 - (b) 3 persons appointed to represent employees,
 - (c) representatives of dust diseases sufferers' support, advocacy or awareness groups or organisations,
 - (d) persons involved in research into dust diseases or in academic matters relating to dust diseases,
 - (e) health professionals,
 - (f) an independent chairperson.
- (2) The Dust Diseases Board has such functions as are conferred or imposed on it by or under this or any other Act.
- (3) Subject to the regulations, a member of the Dust Diseases Board holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment.
- (4) Subject to the regulations, the procedure for the calling of meetings of the Dust Diseases Board and for the conduct of business at those meetings is to be determined by the Chairperson of the Dust Diseases Board.
- (5) The regulations may make provision for or with respect to the members and procedure of the Dust Diseases Board.

[5] Section 6 Constitution of Fund

Omit section 6 (1) (g). Insert instead:

- (g) the investment earnings accruing from the investment of the Fund.

[6] Section 6 (2) (b) and (c)

Omit the paragraphs. Insert instead:

- (b) the costs incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with the compensation scheme established under this Act,
- (c) the costs (as approved by the Minister administering Part 3 of the *State Insurance and Care Governance Act 2015*) incurred by the State Insurance Regulatory Authority in exercising functions in connection with that scheme,

- [7] Sections 6 (2) (d), 7 (except where firstly occurring in section 7 (1) and (1B)), 8 and 10 (2) (a) (iva)**
Omit “medical authority” wherever occurring. Insert instead “Medical Assessment Panel”.
- [8] Section 6 (2AA)**
Omit the subsection. Insert instead:
(2AA) The Authority may invest money in the Fund that is not immediately required for the Fund:
(a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
(b) if that Act does not confer power on the Authority to invest money in the Fund—in any other manner approved by the Minister with the concurrence of the Treasurer.
- [9] Section 6 (2A)**
Omit “board”. Insert instead “Dust Diseases Board”.
- [10] Section 6 (3)**
Omit “the WorkCover Authority of their determination”.
Insert instead “ICNSW and SIRA of its determination”.
- [11] Section 6 (4)**
Omit “in or before the month of May”. Insert instead “as required by ICNSW or SIRA”.
- [12] Section 6 (5) (b) and (d)**
Omit “chairperson of the board” wherever occurring. Insert instead “chief executive”.
- [13] Section 6 (5) (c)**
Omit “the WorkCover Authority”. Insert instead “ICNSW and SIRA”.
- [14] Section 6 (6), (7), (7A), (7E), (7F) and (8)**
Omit “the WorkCover Authority” wherever occurring. Insert instead “SIRA”.
- [15] Section 6 (7) and (7D)**
Omit “The WorkCover Authority” wherever occurring. Insert instead “SIRA”.
- [16] Section 6 (8)**
Omit “the Authority”. Insert instead “SIRA”.
- [17] Section 6 (10)**
Omit the subsection. Insert instead:
(10) The Authority is to furnish to a relevant body such information as the relevant body may require in regard to any of the following:
(a) employment in any industry or process which is of such a nature as to expose the worker to the risk of contracting a dust disease,
(b) the compensation paid and payable to workers in such employment,
(c) the financial position of the Fund,

(d) such other matters arising out of the relevant body's functions under this Act as the body considers will assist it in carrying out its functions.

For the purposes of this section, *relevant body* means ICNSW or SIRA.

[18] Section 7 Medical Assessment Panel

Omit "The medical authority, for the purposes of this Act, shall be a medical board consisting" from section 7 (1).

Insert instead "The Medical Assessment Panel is to consist".

[19] Section 7 (1B)

Omit the subsection.

[20] Section 8 Certificate of Medical Assessment Panel and rates of compensation

Insert after section 8 (1):

(1A) The Authority is to decide whether to accept or refuse a claim for compensation within 2 working days after:

(a) the Medical Assessment Panel issues a certificate under subsection (1),
or

(b) the Authority is provided with the information required by the Authority to enable the claim to be determined,

whichever is the later.

(1AA) However any decision by the Authority made after that 2-day period in respect of the claim is not invalid merely because of when it is made.

[21] Section 8H Inspectors

Omit the section.

[22] Section 8I Appeals

Omit section 8I (1). Insert instead:

(1) If a person affected by a decision of the Authority or the Medical Assessment Panel in relation to a claim for compensation under this Act is dissatisfied with the decision, the person may appeal against the decision to the District Court in accordance with rules of Court. The District Court has jurisdiction to hear and determine any such appeal.

[23] Section 10 Regulations

Omit section 10 (2) (b) (iii).

[24] Schedule 1B

Insert after Schedule 1A:

Schedule 1B Provisions relating to chief executive

(Section 5AA)

1 Term of office

Subject to this Schedule, a person appointed as chief executive holds office for such period (not exceeding 5 years) as may be specified in the person's instrument of appointment.

2 Remuneration

The chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine.

3 Vacancy in office of chief executive

- (1) The office of chief executive becomes vacant if the holder of that office:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office under clause 4, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of chief executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

4 Removal from office

The Minister may remove the chief executive from office at any time for any or no stated reason and without notice.

5 Acting chief executive

- (1) The Minister may appoint a person to act in the office of chief executive during the illness or absence of the chief executive or during a vacancy in the office of chief executive. The person, while so acting, has all the functions of the chief executive and is taken to be the chief executive.
- (2) The Minister may remove a person from any office to which the person was appointed under this clause at any time for any or no stated reason and without notice.
- (3) A person while acting in the office of chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine in respect of the person.

6 Status of chief executive

- (1) The office of chief executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the chief executive.
- (2) The chief executive is, for the purposes of section 73 of that Act, taken to be the holder of a position in a government sector agency.

[25] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

[26] Schedule 2

Insert after Part 6:

Part 7 Provisions consequent on enactment of State Insurance and Care Governance Act 2015

15 Abolition of Workers' Compensation (Dust Diseases) Board

- (1) The Workers' Compensation (Dust Diseases) Board is abolished (the *former Board*).
- (2) Each person holding office as a member of the former Board ceases to hold office as such a member on the abolition of the former Board and is not entitled to any remuneration or compensation for the loss of that office.
- (3) The Authority is a continuation of, and the same legal entity as, the former Board.
- (4) Without limiting subclause (3), any matter being dealt with, but not finally determined, by the former Board before its abolition may continue to be dealt with by the Authority.

16 Existing members of medical authority

A person who was a member of the medical authority under section 7 (as in force immediately before the commencement of this clause) is taken to have been appointed as a member of the Medical Assessment Panel on that commencement.

Schedule 11 Amendment of Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987 No 83

[1] The whole Act (except where otherwise amended by this Schedule)

Omit “Authority” wherever occurring. Insert instead “Self Insurance Corporation”.

[2] Section 3 Definitions

Omit the definition of *Authority* from section 3 (1).

[3] Section 3 (1)

Insert in alphabetical order:

Self Insurance Corporation means the NSW Self Insurance Corporation constituted by the *NSW Self Insurance Corporation Act 2004*.

[4] Section 19 Bush Fire Fighters Compensation Fund

Insert after section 19 (1):

- (1A) The Bush Fire Fighters Compensation Fund is to be administered by the Self Insurance Corporation.

[5] Section 19 (2) (c)

Insert at the end of section 19 (2) (b):

, and

- (c) the investment earnings accruing from the investment of the Fund.

[6] Section 19 (3) (d) and (e)

Insert at the end of section 19 (3) (c):

, and

- (d) all expenses incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with the compensation scheme established under this Part, and
- (e) all expenses (as approved by the Minister administering Part 3 of the *State Insurance and Care Governance Act 2015*) incurred by the State Insurance Regulatory Authority in exercising functions in relation to that scheme.

[7] Section 19 (3A)

Insert after section 19 (3):

- (3A) The Self Insurance Corporation may invest money in the Bush Fire Fighters Compensation Fund that is not immediately required for the Fund:

- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Corporation to invest money in the Fund—in any other manner approved by the Minister with the concurrence of the Treasurer.

[8] Section 20 Assessment and payment of contributions to Fund

Insert after section 20 (2):

- (2A) Any such assessment has no effect unless it is approved by the State Insurance Regulatory Authority.

[9] Section 31 Emergency and Rescue Workers Compensation Fund

Insert after section 31 (1):

- (1A) The Emergency and Rescue Workers Compensation Fund is to be administered by the Self Insurance Corporation.

[10] Section 31 (2)

Insert “and any investment earnings accruing from the investment of the Fund” after “the Fund”.

[11] Section 31 (3) (d)

Insert at the end of section 31 (3) (c):

- , and
- (d) all expenses incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with the compensation scheme established under this Part.

[12] Section 31 (5)

Insert after section 31 (4):

- (5) The Self Insurance Corporation may invest money in the Emergency and Rescue Workers Compensation Fund that is not immediately required for the Fund:
- (a) in such manner as may be authorised by the *Public Authorities (Financial Arrangements) Act 1987*, or
- (b) if that Act does not confer power on the Corporation to invest money in the Fund—in any other manner approved by the Minister with the concurrence of the Treasurer.

[13] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1A (1):

any other Act that amends this Act

Schedule 12 Amendment of NSW Self Insurance Corporation Act 2004 No 106

[1] Section 3 Definitions

Insert in alphabetical order:

chief executive means the chief executive of the Self Insurance Corporation appointed under this Act.

[2] Section 4 Constitution of NSW Self Insurance Corporation

Insert after section 4 (2):

- (3) The Self Insurance Corporation is subject to the control and direction of the Minister in the exercise of its functions.

[3] Sections 5 and 6

Omit the sections. Insert instead:

5 Chief executive of Self Insurance Corporation

- (1) The Minister is to appoint a person as the chief executive of the Self Insurance Corporation.
Note. Schedule 1A contains provisions relating to the chief executive of the Corporation.
- (2) The affairs of the Self Insurance Corporation are to be managed by the chief executive in accordance with any directions of the Minister.
- (3) Any act, matter or thing done in the name of, or on behalf of, the Self Insurance Corporation by the chief executive, or with the authority of the chief executive, is taken to have been done by the Self Insurance Corporation.

[4] Section 9

Omit the section. Insert instead:

9 Delegation

- (1) The Self Insurance Corporation may delegate to an authorised person any of the functions of the Corporation (other than this power of delegation).
- (2) In this section:
authorised person means:
 - (a) a member of staff of Insurance and Care NSW, or
 - (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

[5] Section 11 Self Insurance Fund

Insert after section 11 (3):

- (3A) All expenditure incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with any Government managed fund scheme is to be paid from the Fund.

[6] Section 12A Home Building Compensation Fund

Insert after section 12A (2):

- (2A) The Self Insurance Corporation may not charge any insurance premium for insurance under the Home Building Compensation Fund that it provides unless the premium has been approved by the State Insurance Regulatory Authority.

[7] Section 12A (3) (d1) and (d2)

Insert after section 12A (3) (d):

- (d1) the payment of costs incurred by or on behalf of a NSW Government agency in providing services (including staff and facilities) for or in connection with the insurance scheme established under this section,
- (d2) the costs (as approved by the Minister administering Part 3 of the *State Insurance and Care Governance Act 2015*) incurred by the State Insurance Regulatory Authority in exercising functions in connection with that scheme,

[8] Section 12C Construction Risks Insurance Fund

Insert after section 12C (3) (b):

- (b1) the payment of costs incurred by or on behalf of a NSW Government agency in providing services for or in connection with the principal arranged construction insurance business of the Self Insurance Corporation,

[9] Part 4, Division 4

Insert after Division 3 of Part 4:

Division 4 General

12E Investment strategies for funds

The Treasurer may determine investment strategies for the investment of the Self Insurance Fund, the Home Building Compensation Fund and the Construction Risks Insurance Fund.

[10] Section 15

Omit the section. Insert instead:

15 Seal of Corporation

The seal of the Self Insurance Corporation is to be kept by the Minister and may be affixed to a document only:

- (a) in the presence of the Minister, the chief executive or a member of staff of Insurance and Care NSW authorised in that behalf by the Minister, and
- (b) with an attestation by the signature of the Minister, the chief executive or that member of staff of the fact of the affixing of the seal.

[11] Schedule 1A

Insert before Schedule 1:

Schedule 1A Provisions relating to chief executive

(Section 5)

1 Term of office

Subject to this Schedule, a person appointed as chief executive holds office for such period (not exceeding 5 years) as may be specified in the person's instrument of appointment.

2 Remuneration

The chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine.

3 Vacancy in office of chief executive

- (1) The office of chief executive becomes vacant if the holder of that office:
 - (a) dies, or
 - (b) completes a term of office and is not re-appointed, or
 - (c) resigns the office by instrument in writing addressed to the Minister, or
 - (d) is removed from office under clause 4, or
 - (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (f) becomes a mentally incapacitated person, or
 - (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.
- (2) If the office of chief executive becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

4 Removal from office

The Minister may remove the chief executive from office at any time for any or no stated reason and without notice.

5 Acting chief executive

- (1) The Minister may appoint a person to act in the office of chief executive during the illness or absence of the chief executive or during a vacancy in the office of chief executive. The person, while so acting, has all the functions of the chief executive and is taken to be the chief executive.
- (2) The Minister may remove a person from any office to which the person was appointed under this clause at any time for any or no stated reason and without notice.
- (3) A person while acting in the office of chief executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may determine in respect of the person.

6 Status of chief executive

- (1) The office of chief executive is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to the chief executive.
- (2) The chief executive is, for the purposes of section 73 of that Act, taken to be the holder of a position in a government sector agency.

Schedule 13 Amendment of Home Building Act 1989 No 147

[1] The whole Act (except Schedule 4 and where otherwise amended by this Schedule)

Omit “Chief Executive” and “Chief Executive’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Part 6, Division 1 Home Building Compensation Fund Board

Omit the Division.

[3] Section 91A

Omit the section. Insert instead:

91A Market practice and claims handling guidelines

- (1) The State Insurance Regulatory Authority may, with the concurrence of the Minister and the Minister administering the *NSW Self Insurance Corporation Act 2004*, issue guidelines with respect to appropriate market practices or claims handling procedures (or both) in connection with the provision of insurance under the Home Building Compensation Fund by or on behalf of the Self Insurance Corporation.
- (2) The State Insurance Regulatory Authority may, with the concurrence of the Minister and the Minister administering the *NSW Self Insurance Corporation Act 2004*, amend or revoke any guidelines issued under this section.
- (3) Guidelines issued under this section, or amendments to such guidelines, are to be published in the Gazette and take effect from the date of publication or such later date as may be specified in the guidelines or amendments.

[4] Section 102A Register of insurance particulars

Omit “Chief Executive of the Office of Finance and Services” from section 102A (1) and (3) wherever occurring.

Insert instead “Self Insurance Corporation”.

[5] Section 102A (1) and (3)

Omit “he or she” wherever occurring. Insert instead “the Self Insurance Corporation”.

[6] Section 115C Functions

Omit “or the Fund Board” from section 115C (a).

[7] Section 115D Membership of Advisory Council

Omit section 115D (1) (a) and (b).

[8] Section 144

Omit the section. Insert instead:

144 Exclusion of personal liability

A matter or thing done or omitted to be done by the Secretary, a member of the Advisory Council or a person acting under the direction of the Secretary or the Advisory Council, does not, if the matter or thing was done or omitted in good faith for the purposes of executing this Act, subject the Secretary, the member or a person so acting personally to any action, liability, claim or demand.

[9] Schedule 1 Definitions and other interpretative provisions

Omit the definition of *Chief Executive* from clause 1 (1). Insert in alphabetical order:

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no such person employed in that Department—the Secretary of the Department of Finance, Services and Innovation.

[10] Schedule 1, clause 1 (1), definition of “Fund Board”

Omit the definition.

[11] Schedule 4 Savings and transitional provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on enactment of State Insurance and Care Governance Act 2015

Abolition of Fund Board

- (1) The Home Building Compensation Fund Board is abolished.
- (2) Each person holding office as a member of the Fund Board ceases to hold office as such a member on the abolition of the Fund Board and is not entitled to any remuneration or compensation for the loss of that office.

[12] Schedule 5, heading

Omit “*advisory bodies*”. Insert instead “*Advisory Council*”.

[13] Schedule 5, source reference

Omit “(Sections 89F and 115D)”. Insert instead “(Section 115D)”.

[14] Schedule 5, clause 1

Omit the clause.

[15] Schedule 5

Omit “an advisory body” and “An advisory body” wherever occurring.

Insert instead “the Advisory Council” and “The Advisory Council”, respectively.

[16] Schedule 5

Omit “the advisory body” and “The advisory body” wherever occurring.

Insert instead “the Advisory Council” and “The Advisory Council”, respectively.

[17] Schedule 5

Omit “the body” wherever occurring. Insert instead “the Advisory Council”.

[18] Schedule 5, clause 2 (2)

Omit “Fund Board”. Insert instead “Advisory Council”.

Schedule 14 Amendment of Work Health and Safety Act 2011 No 10

[1] Section 4 Definitions

Omit the definitions of *member of staff* and *regulator*. Insert instead:

member of staff of the regulator means:

- (a) in the case of SafeWork NSW—a person employed in the Department of Finance, Services and Innovation, or
- (b) in the case of the Secretary of the Department of Industry, Skills and Regional Development—a person employed in that Department.

regulator means the regulator established under clause 1 of Schedule 2.

[2] Section 4, definition of “SafeWork NSW”

Insert in alphabetical order:

SafeWork NSW means SafeWork NSW as referred to in clause 1 of Schedule 2.

[3] Section 4A Meaning of “regulator”

Omit the section.

[4] Section 162A Exercise of inspector functions outside area of jurisdiction

Omit “the WorkCover Authority” from paragraph (a) of the definition of *appropriate authority* in section 162A (7).

Insert instead “SafeWork NSW”.

[5] Section 271A Information sharing between regulators

Omit “A regulator or a member of staff of a regulator” from section 271A (1).

Insert instead “Either one of the regulators or a member of staff of either one of the regulators”.

[6] Schedule 2

Omit the Schedule. Insert instead:

Schedule 2 The regulator

1 The regulator

- (1) For the purposes of this Act, the *regulator* is:
 - (a) the Secretary of the Department of Finance, Services and Innovation, unless paragraph (b) applies, or
 - (b) in relation to matters or the exercise of a power or the performance of a function concerning a mining workplace—the regulator under the *Work Health and Safety (Mines) Act 2013* (the *mines regulator*).
- (2) The Secretary of the Department of Finance, Services and Innovation is, as the regulator under this Act, to be known as *SafeWork NSW*.
- (3) The regulations may prescribe specified powers or functions as powers or functions that can be exercised or performed by SafeWork NSW for both regulators.

- (4) When such a power or function is exercised or performed by SafeWork NSW, it is taken to have been exercised or performed by both SafeWork NSW and the mines regulator.
- (5) The mines regulator is not prevented from exercising or performing such a power or function in relation to matters concerning a mining workplace.
- (6) SafeWork NSW is subject to the control and direction of the Minister except in relation to:
 - (a) the contents of any advice, report or recommendation given to the Minister, or
 - (b) any decision that relates to proceedings for offences under this Act, or
 - (c) any decision that relates to a WHS undertaking.

Schedule 15 Amendment of other legislation

15.1 Dangerous Goods (Road and Rail Transport) Act 2008 No 95

[1] Section 4 Definitions

Omit the definition of *WorkCover*. Insert in alphabetical order:

SafeWork NSW means SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*.

[2] Sections 16 (1) (b), 22, 35 (1) (b), 36 (1) (b) and 45 (1) (b)

Omit “WorkCover” wherever occurring. Insert instead “SafeWork NSW”.

[3] Section 71 Delegation

Insert at the end of the section:

- (2) SafeWork NSW may delegate any of the functions of SafeWork NSW under this Act or the regulations to any person employed in the Department of Finance, Services and Innovation.

15.2 Defamation Act 2005 No 77

[1] Schedule 1 Additional publications to which absolute privilege applies

Omit “WorkCover Authority of New South Wales” from clause 4 (2) (c).

Insert instead “State Insurance Regulatory Authority”.

[2] Schedule 1, clause 5 (c)

Omit “Motor Accidents Authority of New South Wales”.

Insert instead “State Insurance Regulatory Authority”.

15.3 District Court Act 1973 No 9

Section 142P Liaison with State Insurance Regulatory Authority

Omit “WorkCover Authority” wherever occurring.

Insert instead “State Insurance Regulatory Authority”.

15.4 Duties Act 1997 No 123

Sections 65 (4) and 222 (4) (b)

Omit “WorkCover Authority” wherever occurring.

Insert instead “State Insurance Regulatory Authority”.

15.5 Electricity (Consumer Safety) Act 2004 No 4

[1] The whole Act (except Schedule 1 and where otherwise amended by this subschedule)

Omit “Director-General” and “Director-General’s” wherever occurring.

Insert instead “Secretary” and “Secretary’s”, respectively.

[2] Section 3 (1), definitions of “Departmental staff member” and “Director-General”

Omit the definitions. Insert in alphabetical order:

Secretary means:

- (a) the Commissioner for Fair Trading, Department of Finance, Services and Innovation, or
- (b) if there is no person employed as Commissioner for Fair Trading—the Secretary of the Department of Finance, Services and Innovation.

[3] Section 38

Omit the section. Insert instead:

38 Arrangements with other public authorities regarding investigable electrical incidents

- (1) The Secretary, SafeWork NSW and the Energy Secretary may enter into arrangements regarding any one or more of the following:
 - (a) matters concerning investigable electrical incidents that the Secretary or the Energy Secretary will refer to SafeWork NSW for investigation or other action under the *Work Health and Safety Act 2011*,
 - (b) matters concerning investigable electrical incidents that the Energy Secretary or SafeWork NSW will refer to the Secretary for investigation or other action under this Act,
 - (c) matters concerning investigable electrical incidents that SafeWork NSW or the Secretary will refer to the Energy Secretary for investigation or other action under the *Electricity Supply Act 1995*,
 - (d) matters concerning an investigable electrical incident that is the subject of investigation or other action by more than one of the following at the same time:
 - (i) the Secretary,
 - (ii) SafeWork NSW,
 - (iii) the Energy Secretary,
 - (e) the co-operative exercise of the respective functions of the Secretary, SafeWork NSW and the Energy Secretary in respect of investigable electrical incidents.
- (2) The Secretary, SafeWork NSW and the Energy Secretary are jointly to cause notice of any arrangements entered into under this section to be published in the Gazette as soon as is practicable after they are entered into. However, a failure to publish any such arrangements does not affect their validity.
- (3) A party to an arrangement entered into under this section:
 - (a) may decline, discontinue or defer an investigation or other action in relation to an investigable electrical incident to give effect to the arrangement, and
 - (b) may disclose any information concerning a matter involving an investigable electrical incident that was duly obtained by that party to another party to the arrangement to which the matter is referred so as to give effect to the arrangement.
- (4) A party to which a matter is referred under an arrangement entered into under this section may investigate or deal with information obtained in respect of the matter referred in order to give effect to the arrangement.

(5) In this section:

Energy Secretary means the Secretary of the Department of Industry, Skills and Regional Development.

investigable electrical incident means an accident or other incident:

- (a) in which electricity is involved, and
- (b) as a consequence of which a person dies or suffers permanent disability, is hospitalised, receives treatment from a health care professional or is unable to attend work for any period of time.

SafeWork NSW means SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*.

[4] Sections 46 and 50 (3)

Omit “Departmental staff member” wherever occurring.

Insert instead “person employed in the Department of Finance, Services and Innovation”.

[5] Section 54 (4), definition of “authorised person”

Omit paragraph (b). Insert instead:

- (b) a person employed in the Public Service, or

15.6 Explosives Act 2003 No 39

[1] Section 4 Meaning of “regulatory authority”

Omit section 4 (1). Insert instead:

- (1) SafeWork NSW (as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*) is the regulatory authority for the purposes of this Act, except as provided by this section.

[2] Section 28A

Insert after section 28:

28A Delegation by regulatory authority

The regulatory authority may delegate any of the regulatory authority’s functions under this Act or the regulations (other than this power of delegation) to:

- (a) any person employed in the Public Service, or
- (b) any person, or any class of persons, authorised for the purposes of this section by the regulations.

[3] Section 30

Omit the section. Insert instead:

30 Fees to be paid into Workers Compensation Operational Fund

Any fees paid to SafeWork NSW as the regulatory authority under this Act or the regulations are to be paid into the Workers Compensation Operational Fund under the *Workplace Injury Management and Workers Compensation Act 1998*.

15.7 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Insert at the end of the Schedule:

Insurance and Care NSW

15.8 Independent Pricing and Regulatory Tribunal Act 1992 No 39

Part 3, Division 2A

Insert after Division 2:

Division 2A WHS matters: investigations and reports

12AA Investigation and report by IPART in relation to SafeWork NSW

- (1) The Tribunal is to conduct an investigation and make a report on such matters relating to the operational costs and expenses of SafeWork NSW as are referred to the Tribunal by the WHS Minister.
- (2) Any such report is to be provided to the WHS Minister within the period specified by the Minister in the terms of reference to the Tribunal.
- (3) In this section:

SafeWork NSW means SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*.

WHS Minister means the Minister administering the *Work Health and Safety Act 2011*.

15.9 Mine Safety (Cost Recovery) Act 2005 No 116

[1] Section 3 (1)

Omit the definition of *insurance premiums order*.

[2] Sections 7 (1) (c) and 10 (11)

Omit “WorkCover” wherever occurring. Insert instead “State Insurance Regulatory”.

[3] Section 10 Contributions to Fund by insurers

Omit section 10 (5).

[4] Section 10 (7)

Omit “(5) or”.

[5] Section 12 Arrangements for exchanging information and for other matters

Omit “WorkCover Authority” where firstly occurring in section 12 (1).

Insert instead “State Insurance Regulatory Authority (*SIRA*)”.

[6] Section 12 (1) (b)–(f) and (2)

Omit “the WorkCover Authority” wherever occurring. Insert instead “SIRA”.

[7] Section 13 (4)

Omit the subsection. Insert instead:

- (4) An authorised officer has, for the purposes of exercising any function under subsection (3), the same functions as an inspector (within the meaning of section 238 of the *Workplace Injury Management and Workers Compensation Act 1998*) has under that section.

15.10 Motor Accidents Act 1988 No 102

Section 3 (1), definition of “Authority”

Omit the definition. Insert instead:

Authority means the State Insurance Regulatory Authority constituted under the *State Insurance and Care Governance Act 2015*.

15.11 Passenger Transport Act 2014 No 46

Section 170 (6), definition of “relevant agency”

Omit paragraph (a). Insert instead:

- (a) SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*, or

15.12 Poisons and Therapeutic Goods Act 1966 No 31

Section 6 Poisons Advisory Committee

Omit section 6 (2) (f). Insert instead:

- (f) 1 is to be a person nominated by the Secretary of the Department of Finance, Services and Innovation, being a person who is employed in the part of the Department that is principally involved in the administration of the *Work Health and Safety Act 2011*.

15.13 Police Regulation (Superannuation) Act 1906 No 28

Section 2H Constitution of Committee

Omit “WorkCover” from section 2H (3) (d). Insert instead “State Insurance Regulatory”.

15.14 Protection of the Environment Operations Act 1997 No 156

Section 148 (8), definition of “relevant authority”

Omit paragraph (e). Insert instead:

- (e) SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*,

15.15 Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

Insert in alphabetical order:

Insurance and Care NSW
Sporting Injuries Compensation Authority
State Insurance Regulatory Authority
Workers Compensation (Dust Diseases) Authority

[2] Schedule 2

Omit the following:

Motor Accidents Authority of New South Wales
WorkCover Authority
Workers' Compensation (Dust Diseases) Board

15.16 Radiation Control Act 1990 No 13

Section 29 Radiation Advisory Council

Omit section 29 (2) (n). Insert instead:

- (n) a person nominated by the Secretary of the Department of Finance, Services and Innovation and who is employed in the part of the Department that is principally involved in the administration of the *Work Health and Safety Act 2011*, and

15.17 Rural Workers Accommodation Act 1969 No 34

[1] Section 3 Definitions

Omit the definition of *WorkCover*. Insert in alphabetical order:

SafeWork NSW means SafeWork NSW as referred to in clause 1 of Schedule 2 to the *Work Health and Safety Act 2011*.

[2] Sections 10–13

Omit “WorkCover” wherever occurring. Insert instead “SafeWork NSW”.

[3] Section 15A

Insert after section 15:

15A Delegation by SafeWork NSW

SafeWork NSW may delegate any of the functions of SafeWork NSW under this Part to any person employed in the Department of Finance, Services and Innovation.

15.18 State Authorities Non-contributory Superannuation Act 1987 No 212

Schedule 1 Employers

Insert at the end of Part 1 of Schedule 1:

Insurance and Care NSW

15.19 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Insert at the end of Part 1 of Schedule 1:

Insurance and Care NSW

15.20 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Schedule 1 Public offices

Omit “WorkCover Independent Review Officer”.

Insert instead “Workers Compensation Independent Review Officer”.

15.21 Superannuation Act 1916 No 28

[1] Schedule 3 List of employers

Insert at the end of Part 1 of Schedule 3:

Insurance and Care NSW

[2] Schedule 26

Omit the following from Part 1 of Schedule 26:

Motor Accidents Authority

WorkCover Authority

15.22 Taxation Administration Act 1996 No 97

Section 82 Permitted disclosures—to particular persons

Omit “WorkCover” from section 82 (k) (vii). Insert instead “State Insurance Regulatory”.

15.23 Work Health and Safety Regulation 2011

Clause 703 Regulatory action where either SafeWork NSW or mines regulator is the regulator

Omit “section 4A of the Act”. Insert instead “clause 1 of Schedule 2 to the Act”.

[Second reading speech made in—

Legislative Assembly on 5 August 2015

Legislative Council on 12 August 2015]